



November 7, 2024

[REDACTED]

RE: [REDACTED] v. WVDohS
ACTION NOS.: 24-BOR-3409 AND 24-BOR-3410

Dear [REDACTED]

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

In arriving at a decision, the State Hearing Officer is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Human Services. These same laws and regulations are used in all cases to ensure that all persons are treated alike.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

Encl: Recourse to Hearing Decision
Form IG-BR-29

cc: Carla Marsh, DoHS

**WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW**

██████████,

Appellant,

v.

Action Numbers: 24-BOR-3409 and 24-BOR-3410

**WEST VIRGINIA DEPARTMENT OF HUMAN SERVICES
BUREAU FOR FAMILY ASSISTANCE,**

Respondent.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision of the State Hearing Officer resulting from a fair hearing for ██████████. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Office of Inspector General Common Chapters Manual. This fair hearing was convened on October 29, 2024. It should be noted that the hearing recording inadvertently states that the hearing date was October 30, 2024, instead of October 29, 2024.

The matter before the Hearing Officer arises from the Respondent's termination of Supplemental Nutrition Assistance Program (SNAP) and Medicaid benefits as outlined in a notice dated August 28, 2024.

At the hearing, the Respondent appeared by Carla Marsh, Economic Service Worker Senior, WVDoHS. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 SNAP Work Rules notice dated July 19, 2024
- D-2 SNAP penalty notice dated August 28, 2024
- D-3 Notice of Decision dated August 28, 2024
- D-4 West Virginia Income Maintenance Manual Chapters 14.2.1, 14.2.1.A, 14.3.1.A, 14.5, and 14.5.1.B

Appellant's Exhibits:

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) The Appellant was a recipient of Supplemental Nutrition Assistance Program (SNAP) and Medicaid benefits.
- 2) The Respondent sent the Appellant a SNAP Work Rules notice on July 19, 2024, indicating that he must register with WorkForce West Virginia by August 17, 2024 (Exhibit D-1).
- 3) The Appellant left a voice mail message for a Respondent worker on or about August 13, 2024, reporting that he had started working at [REDACTED]
- 4) The Respondent's worker attempted to contact the Appellant via telephone on August 13, 2024, to obtain additional information about his employment but could not reach him.
- 5) The Respondent's worker pended the Appellant's SNAP and Medicaid case and sent the Appellant an employment verification statement so that the Appellant could obtain verification of income/hours worked from his employer.
- 6) The Appellant attempted to provide the employment verification statement to the Respondent on September 28, 2024; however, the statement did not include the employer's signature, so the Respondent advised him to obtain the signature.
- 7) The Respondent sent the Appellant a Notice of Decision on August 28, 2024, indicating that his SNAP and Medicaid benefits would be terminated effective October 2024 because he failed to verify requested information (Exhibit D-3).
- 8) The Respondent sent the Appellant a second notice on August 28, 2024, indicating that he would be placed in a six-month SNAP work penalty (second penalty) for failing to register with WorkForce West Virginia (Exhibit D-2).
- 9) The Appellant was fired from [REDACTED] on or about October 4, 2024.
- 10) The Appellant submitted an unsigned employment verification statement from [REDACTED] on October 7, 2024 (after he was fired) and indicated that the employer refused to sign the statement.

- 11) As the Appellant was no longer working, the Respondent reinstated the Appellant's Medicaid benefits based on zero income effective October 2024 with no lapses in Medicaid coverage.
- 12) The Appellant registered with WorkForce West Virginia on October 9, 2024, but his work penalty could not be lifted because the penalty period had already begun.
- 13) The Appellant has since accepted employment at [REDACTED]

APPLICABLE POLICY

Code of Federal Regulations 7 CFR §273.7 describes work requirements for SNAP recipients:

(a) Work requirements

(1) As a condition of eligibility for SNAP benefits, each household member who is not exempt under paragraph (b)(1) of this section must comply with the following SNAP work requirements:

(i) Register for work or be registered by the State agency at the time of application and every 12 months after initial registration. The member required to register need not complete the registration form.

(ii) Participate in a Food Stamp Employment and Training (E&T) program if assigned by the State agency, to the extent required by the State agency;

(iii) Participate in a workfare program if assigned by the State agency;

(iv) Provide the State agency or its designee with sufficient information regarding employment status or availability for work;

(v) Report to an employer to whom referred by the State agency or its designee if the potential employment meets the suitability requirements described in paragraph (h) of this section;

(vi) Accept a bona fide offer of suitable employment, as defined in paragraph (h) of this section, at a site or plant not subject to a strike or lockout, at a wage equal to the higher of the Federal or State minimum wage or 80 percent of the wage that would have governed had the minimum hourly rate under section 6(a)(1) of the Fair Labor Standards Act been applicable to the offer of employment.

(vii) Do not voluntarily and without good cause quit a job of 30 or more hours a week or reduce work effort to less than 30 hours a week, in accordance with paragraph (j) of this section...

(3) Each State agency will determine the meaning of any other terms used in paragraph (a)(1) of this section; the procedures for establishing compliance with SNAP work requirements; and whether an individual is complying with SNAP work requirements. A State agency must not use a meaning, procedure, or determination that is less restrictive on SNAP recipients than is a comparable

meaning, procedure, or determination under the State agency's program funded under title IV-A of the Social Security Act.

(c) State Agency Responsibilities

(1)(i) The State agency must register for work each household member not exempted by the provisions of paragraph (b)(1) of this section. The State agency must permit the applicant to complete a record or form for each household member required to register for employment in accordance with paragraph (a)(1)(i) of this section. Household members are considered to have registered when an identifiable work registration form is submitted to the State agency or when the registration is otherwise annotated or recorded by the State agency.

(ii) During the certification process, the State agency must provide a written notice and oral explanation to the household of all applicable work requirements for all members of the household and identify which household member is subject to which work requirement. These work requirements include the general work requirement in paragraph (a) of this section, mandatory E&T in paragraph (a)(1)(ii) of this section, and the ABAWD work requirement at §273.24. The written notice and oral explanation must be provided in accordance with (c)(1)(iii) of this section. This written notice and oral explanation must also be provided to the household when a previously exempt household member or a new household member becomes subject to these work requirements, and at recertification.

(iii) The consolidated written notice must include all pertinent information related to each of the applicable work requirements, including: An explanation of each applicable work requirement; which individuals are subject to which work requirement; exemptions from each applicable work requirement; an explanation of the process to request an exemption (including contact information to request an exemption); the rights and responsibilities of each applicable work requirement; what is required to maintain eligibility under each applicable work requirement; pertinent dates by which an individual must take any actions to remain in compliance with each applicable work requirement; the consequences for failure to comply with each applicable work requirement; an explanation of the process for requesting good cause (including examples of good cause circumstances and contact information to initiate a good cause request); and any other information the State agency believes would assist the household members with compliance.

(f)(2) Disqualification periods. The following disqualification periods will be imposed:

(i) For the first occurrence of noncompliance, the individual will be disqualified until the later of:

(A) The date the individual complies, as determined by the State agency; (B) One month; or (C) Up to three months, at State agency option.

(ii) For the second occurrence, until the later of: (A) The date the individual complies, as determined by the State agency; (B) Three months; or (C) Up to six months, at State agency option. **(iii)** For the third or subsequent occurrence, until the later of: (A) The date the individual complies, as determined by the State

agency; (B) Six months; (C) A date determined by the State agency; or (D) At the option of the State agency, permanently.

West Virginia Income Maintenance Manual Chapter 14.2.1.A states that all SNAP applicants/recipients are subject to a work requirement, unless exempt.

West Virginia Income Maintenance Manual Chapter 14.3.1.A states that all individuals must register for employment with WorkForce West Virginia within 30 days of the date of the original SNAP approval unless exempt. Clients must register every 12 months thereafter, regardless of the length of time that WorkForce West Virginia considers the registration valid. A client may register by visiting a WorkForce West Virginia office or may register online.

Chapter 14.5.1.B of the Manual states that a client who refuses or fails to register with WorkForce West Virginia, refuses employment, or refuses to provide information about employment status and job availability is subject to the following penalties for the full penalty period or until he or she reports a change which makes him/her exempt from work requirements.

Chapter 14.5.1.B states that for a second work program violation, the individual is removed from the SNAP Assistance Group for at least six months or until he or she meets an exemption. If after six months, the client has not complied or met an exemption, the penalty continues until he does comply or meets an exemption for some reason other than UCI-related activities.

Chapter 7.2.1 states the following regarding verification of information:

Verification of a client's statement is required when:

- Policy requires routine verification of specific information.
- The information provided is questionable. To be questionable, it must be:
 - o Inconsistent with other information provided; or
 - o Inconsistent with the information in the case file; or
 - o Inconsistent with information received by the Department of Human Services (DOHS) from other sources; or
 - o Incomplete; or
 - o Obviously inaccurate; or
 - o Outdated.
- Past experience with the client reveals a pattern of providing incorrect information or withholding information. A case recording must substantiate the reason the Worker questions the client's statement.
- The client does not know the required information.

Chapter 7.2.3 provides the following information concerning verification:

The primary responsibility for providing verification rests with the client. It is an eligibility requirement that the client cooperate in obtaining necessary verifications, with an exception being that a client must never be asked to provide verification that he is or is not either a fleeing felon or a probation/parole violator. The client is expected to provide information to which he has access and to sign authorizations

needed to obtain other information. Failure of the client to provide necessary information or to sign authorizations for release of information results in denial of the application or closure of the active case, provided the client has access to such information and is physically and mentally able to provide it.

Refusal to cooperate, failure to provide necessary information, or failure to sign authorizations for release of information, provided the client has access to such information and is physically and mentally able to provide it, may result in one of the following:

- Denial of the application
- Closure of the assistance group (AG)
- Determination of ineligibility
- Disallowance of an income deduction or an incentive payment

No case may be determined ineligible when a person outside the AG or income group (IG) fails to cooperate with verification.

Chapter 7.3.36 of the Manual states that verification of hours worked is required for SNAP purposes prior to exemption when an AG member is a student or an Able-Bodied Adults Without Dependents (ABAWD). Possible sources of verification include pay stubs, a written statement from the employer, or Work Record Sheet DFA-17.

Chapter 7.3.41 of the Manual states that verification of income is required during the SNAP certification period when there is a change in employment or a change in earnings of \$125 or more. The source and amount should be verified via pay stubs, a written statement from the employer, or Work Record Sheet DFA-17. When there is absolutely no other source of verification, the client's statement must be used.

DISCUSSION

Policy states that all SNAP applicants/recipients are subject to a work requirement, unless exempt. A non-WV WORKS SNAP recipient who refuses or fails to register with WorkForce West Virginia is subject to a penalty for the full penalty period or until he or she reports a change that makes him/her exempt from work requirements. For the second work program violation, the individual is removed from the SNAP Assistance Group for at least six months or until he or she meets an exemption. Verification of income is required during the SNAP certification period when there is a change in employment or a change in earnings of \$125 or more. The source and amount should be verified via pay stubs, a written statement from the employer, or Work Record Sheet DFA-17.

The Appellant testified that he began work at [REDACTED] on July 23, 2024. He stated that he was driving back and forth to [REDACTED] and was working 50 to 70 hours per week (12-hour shifts) at the business, and that he reported his new employment to the Respondent on or about August 13, 2024. The Appellant stated that he drove to [REDACTED] on or about September 28, 2024, and filled out paperwork concerning the new employment, but was told that

he would need to obtain the employer's signature to verify the information. The Appellant contended that he did not have time to drive to [REDACTED] and turn in paperwork concerning his employment while he was working. He testified that he was fired from [REDACTED] on October 4, 2024, and subsequently returned his employment information unsigned to the Respondent because he could not obtain the employer's signature. The Appellant stated that he has since begun working at [REDACTED] between 40 to 56 hours per week.

Economic Service Worker Senior Carla Marsh, the Respondent's representative, testified that a Department worker attempted to contact the Appellant by telephone on August 13, 2024, after receiving his telephone message regarding the new employment, but could not reach him. At that time, the worker sent a form to the Appellant, requesting employer verification of pertinent income information. Ms. Marsh indicated that employment information submitted by the Appellant on October 7, 2024, listed his employment separation date from [REDACTED] as August 3, 2024, and indicated that his final pay was received on August 4, 2024. Ms. Marsh contended that the Department did not know how many hours the Appellant was working during this period and that the Appellant did not register with WorkForce West Virginia until October 9, 2024, after the work sanction had already begun.

While it may have been difficult for the Appellant to travel to the [REDACTED] DoHS office while he was working at [REDACTED], there is no indication that he contacted the Respondent to address his difficulties or determine other methods (mail, electronic mail, etc.) by which to submit signed employment verification to the Respondent. The Appellant did not register with WorkForce West Virginia until after the work penalty was already in place and the Respondent did not learn of the Appellant's problems in obtaining an employer signature on the employment verification form until October 7, 2024.

As the Appellant did not submit proper verification of employment or register with WorkForce West Virginia prior to the imposition of the SNAP work requirement penalty, the Respondent's action to apply the second work program penalty is correct.

The Respondent reopened the Appellant's Medicaid case in October 2024 with no lapses in Medicaid coverage, so the issue of Medicaid termination is moot.

CONCLUSIONS OF LAW

- 1) A non-WV WORKS SNAP recipient who refuses or fails to register with WorkForce West Virginia is subject to a penalty for the full penalty period or until he or she reports a change that makes him/her exempt from work requirements.
- 2) The Appellant was required to register with WorkForce West Virginia by August 17, 2024.
- 3) The Appellant failed to register with WorkForce West Virginia by August 17, 2024, or prior to imposition of the work penalty.

- 4) The Appellant failed to verify employment information for a possible exemption from work requirements prior to imposition of the work penalty.
- 5) The Respondent's decision to impose a six-month, second work requirement penalty on the Appellant's SNAP benefits is correct.
- 6) The issue of Medicaid termination is moot since Medicaid benefits were reinstated in October 2024 with no lapses in coverage.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's action to impose a six-month work requirement penalty on the Appellant's SNAP benefits beginning October 2024. It is the decision of the State Hearing Officer to **DISMISS** the Respondent's hearing request concerning Medicaid closure because resolution in the Appellant's favor has rendered the issue moot.

ENTERED this 7th day of November 2024.

**Pamela L. Hinzman
State Hearing Officer**