



November 13, 2024

[REDACTED]

RE: [REDACTED] v. WV DoHS/BFA
ACTION NO.: 24-BOR-3423

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,

Tara B. Thompson, MLS
State Hearing Officer
Member, State Board of Review

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

Cc: [REDACTED] DoHS: Pamela Trickett, Justin Thorne, and Monica Emery

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

██████████,

Appellant,

v.

Action Number: 24-BOR-3423

**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 Office of Inspector General Common Chapters Manual. This fair hearing was convened on November 6, 2024.

The matter before the Hearing Officer arises from the September 5, 2024 decision to terminate the Appellant’s Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent was represented by Monica Emery, ██████████ DoHS. The Appellant appeared and represented herself. All witnesses were placed under oath and the following documents were admitted into evidence.

Department’s Exhibits:

- D-1 Fair Hearing Summary
Notice, dated September 5, 2024
- D-2 Fair Hearing Request Form, received October 9, 2024
- D-3 SNAP Work Rules Notice, dated July 9, 2024
SNAP Notice of Decision, dated September 5, 2024
- D-4 PATH Case Comments, dated February 29 to October 11, 2024

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) On September 5, 2024, the Respondent issued a written notice advising the Appellant her SNAP benefits would end after September 30, 2024, because she failed to register with WorkForce West Virginia (Exhibit D-1).
- 2) The September 5, 2024 notice provided, “If you wish to request continued benefits, you must ask for a Fair Hearing or a Conference before the date of proposed closure or reduction” (Exhibit D-1).
- 3) On September 5, 2024, the Respondent issued a written *Notice of Decision* advising the Appellant a third SNAP work requirement penalty was applied to her SNAP eligibility because she failed to register as required (Exhibit D-3).
- 4) The *Notice of Decision* advised she would be ineligible for SNAP benefits for 12 months or until compliance, whichever is longer (Exhibit D-3).
- 5) The Appellant is legally blind.
- 6) On October 9, 2024, the Appellant received the Appellant’s written hearing request that was signed on October 8, 2024 (Exhibit D-1).
- 7) On October 11, 2024, Respondent Worker ██████████ recorded that the Appellant’s SNAP benefits were reopened pending the Hearing Officer’s *Decision* (Exhibit D-4).

Notification of WorkForce Registration Requirement

- 8) On July 9, 2024, the Respondent issued a *SNAP Work Rules* notice that advised the Appellant that she must follow the listed rules to receive SNAP benefits and failure to follow the rules may result in the end of her receipt of SNAP benefits (Exhibit D-3).
- 9) The *SNAP Work Rules* instructed the Appellant must follow *Basic Work Rules* unless she is:
 - Younger than age 16, or age 60 or older,
 - Taking care of a child younger than age 6 or someone who needs help caring for themselves,
 - Already working at least 30 hours a week,
 - Already earning \$217.50 (gross pay) or more per week,
 - Receiving unemployment benefits, or applying for unemployment benefits,
 - Not working because of a physical or mental health reason,
 - Going to school, college, or training program at least half-time,

- Meeting the work rules for WV WORKS
- Participating in a drug or alcohol addiction treatment program (Exhibit D-3).

10) The notice provided that if the Appellant believed one of the exemptions applied to her, she should call the Respondent as soon as possible (Exhibit D-3).

11) The *Basic Work Rules* instructed:

You must follow these Basic Work Rules to keep your SNAP benefits:

1. Register for job service with Workforce WV when approved for SNAP and every 12 months after.
2. Accept any job offer you receive, unless there is a good reason you can't.
3. If you have a job, don't quit your job or choose to work less than 30 hours each week without having a good reason, such as getting sick, being discriminated against, or not getting paid.
4. Tell us about your job and how much you are working, if asked (Exhibit D-3).

12) The *Basic Work Rules* instructed the Appellant to register with job service— via online or by telephone — and contact the Respondent to report her job service registration by August 7, 2024 (Exhibit D-3).

13) The *Basic Work Rules* provided that a caseworker would check the Appellant's registration in the system (Exhibit D-3).

14) The *Basic Work Rules* provided that if the Appellant failed to follow the *Basic Work Rules* thrice without a good reason, she would not be eligible for SNAP benefits for twelve months (Exhibit D-3).

Compliance with WorkForce Registration Requirement

15) On February 29, 2024, the Respondent's Worker [REDACTED] recorded, "rec written statement that client is no (sic) watching children for work activity" and "now ABAWD exempt going forward" (Exhibit D-4).

16) On June 6, 2024, the Respondent's Worker [REDACTED] recorded, "prc processed" (Exhibit D-4).

17) On July 8, 2024, the Respondent's Worker [REDACTED] checked the Appellant's WorkForce registration, noted that the registration was inactive, and recorded a letter was issued giving the Appellant 30 days to register (Exhibit D-4).

18) On September 4, 2024, the Respondent's Worker [REDACTED] recorded, "letter had not issued. Issued letter. Has 30 days to register. Currently inactive" (Exhibit D-4).

- 19) The Appellant's SNAP ineligibility penalty period began on October 1, 2024 (Exhibits D-1 and D-4).
- 20) On October 7, 2024, the Respondent's Worker █████ recorded the Appellant visited the office to inquire about the SNAP penalty (Exhibit D-4).
- 21) On October 8, 2024, the Respondent's Worker █████ recorded the Appellant called the Respondent and reported she did not know she had to register with WorkForce and that she thought she did register with WorkForce (Exhibit D-4).
- 22) The October 8, 2024 note by Respondent Worker █████ reflected, "checked WF screen and it shows she has job preferences but job status is inactive" and "No changes were made" (Exhibit D-4).

APPLICABLE POLICY

West Virginia Income Maintenance Manual § 14.3.1.A *Registration Requirements* provides that the client may register by visiting a WorkForce West Virginia office or by registering online.

The Worker must explain these requirements to the client and enter the registration date in the eligibility system ... The Worker must enter the appropriate information into the eligibility system at any point during the certification period when the client is due to register with WorkForce West Virginia. The eligibility system uses this information to send the client the notice to register 30 days before the due date.

When the Worker discovers the client was not notified that he must re-register during the certification period and is not currently exempt, the Worker must follow the same steps as noted above to establish a new registration due date and to ensure the client is notified 30 days before the new registration due date.

WVIMM §14.5.1.B provides that a client who fails to register with Workforce is subject to a penalty period. For the first violation, the client is removed from the Assistance Group (AG) for at least three months. For the second violation, the client is removed from the AG for six months. For the third violation, the client is removed from the AG for twelve months.

Code of Federal Regulations 7 CFR § 273.7 *Work Requirements* provides:

- (a)(1) *Persons required to register.* Each household member who is not exempt by paragraph (b)(1) of this section shall be registered for employment by the State agency at the time of application, and once every twelve months after initial registration, as a condition of eligibility

Code of Federal Regulations 7 CFR § 273.7(c) *State Agency Responsibilities* provides:

(1)

(i) Non-exempted 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 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 new household member becomes subject to these work requirements, and at recertification ...

(3) After learning of an individual's non-compliance with SNAP work requirements, the State agency must issue a notice of adverse action to the individual, or to the household if appropriate, within 10 days of establishing that the noncompliance was without good cause ... If the individual complies before the end of the advance notice period, the State agency will cancel the adverse action.

Code of Federal Regulations 7 CFR § 273.7(f) *Ineligibility for failure to comply* provides:

A nonexempt individual who refuses or fails without good cause to comply with SNAP work requirements listed under paragraph (a)(1) of this section is ineligible to participate in SNAP, and will be considered an ineligible household member, under the conditions provided in § 273.1(b)(7).

(1)

(i) As soon as the State agency learns of the individual's noncompliance it must determine whether good cause for noncompliance exists, as discussed in paragraph (i) of this section. Within 10 days of establishing that the noncompliance was without good cause, the State agency must provide the individual with a notice of adverse action, as specified in § 273.13 ...

(2) 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.

Code of Federal Regulations 7 CFR § 273.7(i) *Good Cause* provides:

- (1) The state agency is responsible for determining good cause when a SNAP recipient fails or refuses to comply with SNAP work requirements. Since it is not possible for the Department to enumerate each individual situation that should or should not be considered good cause, the State agency must take into account the facts and circumstances, including information submitted by the employer and by the household member involved, in determining whether good cause exists.
- (2) Good cause includes circumstances beyond the member's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, the unavailability of transportation, or the lack of adequate child care for children who have reached age six but are under age 12.

DISCUSSION

The Respondent implemented a twelve-month SNAP ineligibility penalty against the Appellant, beginning on October 1, 2024, for her third failure to register with WorkForce by the required date. The Appellant did not refute that this was the Respondent's third application of a SNAP ineligibility penalty against her. The Appellant argued that she registered with WorkForce on September 5, 2024.

The Respondent bears the burden of proof. To prove that the Respondent correctly terminated the Appellant's SNAP eligibility and implemented a third SNAP ineligibility penalty, the Respondent had to demonstrate by a preponderance of evidence that the Appellant was properly notified of her WorkForce registration requirement and failed or refused to comply by the due date.

Both parties were allowed to present documentary evidence and testimony. No testimony or records were submitted to indicate that the Appellant would qualify for any exemption listed under 7 CFR § 273.7 (b)(1).

Written Notification and Oral Explanation of SNAP Work Requirements

The federal regulations instruct that the State agency is required to register non-exempt SNAP members every twelve months after initial WorkForce registration to continue SNAP eligibility. The Respondent's policy instructs that the client may register by visiting WorkForce or by registering online. The regulations specify that the agency must provide a written notice and oral explanation to the household of all applicable work requirements for all members of the household. The policy presents sequential instructions to explain these requirements to the client and enter the registration due date in the eligibility system. Then, the eligibility system uses this information to send the client the notice to register 30 days before the due date.

Upon the Worker's discovery that the client was not notified she must re-register during the certification period and is not currently exempt, the Worker must follow the same steps as noted above to establish a new registration due date and to ensure the client is notified 30 days before the new registration due date.

The Respondent's worker noted on July 8, 2024, the Appellant had not been notified, so a letter was issued advising she had 30 days to register with WorkForce. The preponderance of evidence revealed that the Respondent notified the Appellant in writing on July 9, 2024, that she was required to register with WorkForce by telephone or online by August 7, 2024.

The case comments indicated that the Respondent's worker recorded that the written notice was issued but no record was made to affirm that the Appellant was notified orally of her registration requirements. The preponderance of evidence revealed the Respondent failed to meet the agency's responsibility to notify the Appellant orally and in writing of her WorkForce registration requirement.

Failure to Comply with WorkForce Registration

When a client fails to register with WorkForce and report the registration to the Respondent by the due date, the Respondent may implement a SNAP disqualification penalty period.

During the hearing, the Appellant testified that she was confused about her requirement to register for WorkForce because of her exemption status for ABAWD requirements. The Appellant testified that she is legally blind. The Respondent did not refute the Appellant's testimony on this point.

The February 29, 2024 case comments indicated, "now ABAWD exempt going forward," but no other information was provided to corroborate the basis for the exemption. The same case comment also reflected "rec written statement that client is no watching children for work activity," which is not a grammatically correct sentence. It cannot be discerned whether the Respondent's worker intended to record *now* or *not* for this record; thus, no reliable inference can be made from this record regarding the Appellant's babysitting activity being previously applied as a work activity or basis for an ABAWD or WorkForce exemption.

The Appellant testified that she registered for WorkForce online on September 5, 2024, and was told she still had time to call in and report her registration, but she believed she was exempt due to her ABAWD exemption status. The Appellant testified that she tried to call and brought in an updated babysitting letter for her ABAWD exemption and did not believe she was required to register with WorkForce. During the hearing, the Appellant testified that she left voicemails for the worker but that she did not think to clarify in her message that she was reporting her September 5, 2024 WorkForce registration.

The Respondent's representative testified that the Respondent is required to keep a log of calls and messages received from clients. During the hearing, a recess was taken to permit the Respondent's representative to review the Respondent's record and determine if there was any documentary evidence to verify the Appellant had called the Respondent after her September 5, 2024 WorkForce

registration. The Respondent could not locate any additional records to establish the Respondent had received and documented the Appellant's WorkForce registration.

Because the Respondent failed to prove by a preponderance of the evidence that the Respondent informed the Appellant orally and in writing of her WorkForce registration requirements, the issue of whether the Appellant complied with her WorkForce registration requirements by the due date is moot.

CONCLUSIONS OF LAW

- 1) When a client fails to register with WorkForce and report the registration to the Respondent by the due date, the Respondent may implement a SNAP disqualification penalty period.
- 2) The Respondent is required to provide the Appellant with a written notice and oral explanation of all applicable work requirements that identify which household member is subject to which work requirement.
- 3) The preponderance of evidence verified the Respondent issued a written notice advising the Appellant of her SNAP work requirements.
- 4) The preponderance of evidence failed to establish that the Respondent orally explained the Appellant's SNAP work requirements to her.
- 5) As the preponderance of evidence failed to verify the Respondent orally explained the Appellant's SNAP work requirements, the Respondent's decision to implement a third SNAP ineligibility penalty cannot be affirmed.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's decision to apply a third SNAP ineligibility penalty against the Appellant. The Respondent's decision to terminate the Appellant's SNAP benefits because she failed to comply with WorkForce registration requirements is **REVERSED**.

ENTERED this 13th day of November 2024.

Tara B. Thompson, MLS
State Hearing Officer