



December 10, 2024

[REDACTED]

RE: [REDACTED] v. WV DoHS/ BFA  
ACTION NO.: 24-BOR-3604

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 assure 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: Sarah Austin, Justin Thorne, Pamela Trickett – [REDACTED] DoHS

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

██

**Appellant,**

v.

**Action Number: 24-BOR-3604**

**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 December 3, 2024.

The matter before the Hearing Officer arises from the Respondent's October 15, 2024 decision to implement a Supplemental Nutrition Assistance Program (SNAP) ineligibility penalty that resulted in termination of the Appellant's SNAP benefits.

At the hearing, the Respondent was represented by Sarah Austin, ██████████ DoHS. The Appellant appeared *pro se*. All participants were sworn, and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Combined Work Notice, dated August 2, 2024
- D-2 Combined Work Notice, dated September 5, 2024
- D-3 SNAP Work Requirement Penalty Notice, October 15, 2024
- D-4 SNAP Eligibility Notice, dated October 15, 2024
- D-5 Case Comment Summary  
Case Comment partial screen print: September 4, September 20, October 11, October 17, November 4, and November 18, 2024
- D-6 SNAP Work Requirement Penalty summary
- D-7 West Virginia Income Maintenance Manual (WVIMM) excerpts

**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 October 15, 2024, the Respondent issued a notice advising the Appellant a second SNAP ineligibility penalty had been applied to his SNAP case because the Appellant failed to register with WorkForce WV (Exhibit D-3).
- 2) On October 15, 2024, the Respondent issued a notice advising the Appellant's SNAP benefits would end after October 31, 2024, because he failed to register with WorkForce WV (Exhibit D-4).
- 3) A previous SNAP ineligibility penalty was applied to the Appellant from September 2020 through March 2021.
- 4) Provided case comments reflected a cut-off date for November 18, 2024 that reads as "1/18/24" (Exhibit D-5).

**Written Notice of Responsibility to Register**

- 5) On August 2, 2024, the Respondent issued a *SNAP Work Rules* notice to the Appellant's address of record (Exhibit D-1).
- 6) The *Basic Work Rules*, provided in the August 2, 2024 *SNAP Work Rules*, instructed that to keep his SNAP benefits, the Appellant must register with WorkForce WV by August 31, 2024, and notify the Respondent of the completed registration (Exhibit D-1).
- 7) On September 5, 2024, the Respondent issued a *SNAP Work Rules* notice to the Appellant's address of record (Exhibit D-2).
- 8) The *Basic Work Rules*, provided in the September 5, 2024 *SNAP Work Rules*, instructed that to keep his SNAP benefits, the Appellant must register with WorkForce WV by October 4, 2024, and notify the Respondent of the completed registration (Exhibit D-2).
- 9) The *SNAP Work Rules* notice advised the Appellant that if he did not follow the rules, his SNAP benefits might decrease or end (Exhibits D-1 and D-2).
- 10) The *SNAP Work Rules* notice advised that the Appellant must follow the *Basic Work Rules* (Exhibits D-1 and D-2).

- 11) The *SNAP Work Rules* notice listed circumstances of individuals who may not have to follow the rules and provided instructions to call the Respondent as soon as possible if the Appellant thought one of the reasons applied to him (Exhibits D-1 and D-2).
- 12) The *Basic Work Rules* instructed that the Appellant could register for job service online or by telephone and provided the relevant contact information (Exhibits D-1 and D-2).

#### **Oral Notification of Requirement to Register**

- 13) On September 4, 2024, the Respondent's Worker EW30BK noted during the Appellant's phone review: "WF Needs to reg," "ABWAD [sic] Exempt-pending," and "Written statement from brother saying he works for him" (Exhibit D-5).
- 14) On October 11, 2024, the Respondent's Worker EW30AU noted that a written statement was received from the Appellant on September 18, 2024, for ABAWD exemption and recorded, "Will need to register with WVWF- proper notice sent" (Exhibit D-5).

#### **Completion of WorkForce WV Registration**

- 15) On October 11, 2024, the Respondent's Worker EW30BF noted, "inactive with job status and job preference verified via link. Proper notice was sent out," and "Snap failed as penalty to start 11/1" (Exhibit D-5).
- 16) On November 4, 2024, the Respondent's Worker ESS309 noted, "client in for his SNAP not being on card, WorkForce sanction placed and he reg today after it started. Client verbally requested a hearing ..." (Exhibit D-5).
- 17) The Appellant registered with WorkForce WV on November 4, 2024 (Exhibit D-5).

### **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 WV. The eligibility system uses this information to send the client the notice to register 30 days before the due date.

**WVIMM *SNAP Work Requirement Penalties - Non-Voluntary Quit Penalties* § 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 six-month SNAP ineligibility penalty against the Appellant for his second failure to register with WorkForce WV by the required date. During the hearing, the Respondent testified that the Appellant was previously penalized for failure to register with WorkForce WV from September 2020 through March 2021. The Appellant did not refute that this was the Respondent's second application of a SNAP ineligibility penalty against him and only argued that he believed he was exempt from the work requirement because he submitted a statement that exempted him from ABAWD requirements.

While the referenced ABAWD exemption statement was not supplied for review, the submitted evidence revealed that the statement reflected information regarding work the Appellant performed for his brother. 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).

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

During the hearing, the Respondent's representative testified that the case comment date for November 18, 2024 was cut off during copying and reflected notes for events that occurred in November, not January 2024. The Appellant did not refute the Respondent's representative's testimony regarding the case comment date or raise any issue regarding the reliability of the record.

### **Oral Explanation Written Notification of SNAP Work Requirements**

During the hearing, the Appellant testified that he was confused about his requirement to register for WorkForce because of his exemption status for ABAWD 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. This requirement is different than the ABAWD work requirement.

The Respondent's policy instructs that the client may register by visiting WorkForce WV 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 to 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.

### **Oral Explanation of Work Registration Requirements**

During the hearing, the Respondent's representative testified that the Appellant was orally advised of his responsibility to register during his phone review on September 4, 2024. The Appellant contended that he believed he had satisfied his requirements after submitting the ABAWD exemption statement from his brother.

The Respondent has a responsibility to ensure documentation was made regarding actions taken to the Appellant's benefit case. The submitted case comments indicate that during the phone review, the Respondent's worker reviewed the Appellant's WorkForce registration and ABAWD requirements. As indicated in the case comments, the case was pended for a written statement, for ABAWD purposes, and a statement was provided by the Appellant on September 18, 2024. No information was provided to verify that the Appellant's representative's testimony or the case comment were unreliable. The preponderance of submitted evidence indicated that the Respondent orally notified the Appellant of his WorkForce WV registration requirement on September 4, 2024.

### **Written Notification of Work Registration Requirements**

During the hearing, the Appellant affirmed his address of record. The evidence revealed that the Appellant was notified in writing of his WorkForce WV registration responsibilities on August 2, 2024. However, the submitted evidence did not verify that the Appellant was orally notified of his registration responsibilities at that time.

The evidence revealed that the Respondent conducted a phone review with the Appellant on September 4, 2024, and reviewed the Appellant's WorkForce WV registration requirement. Following the September 4, 2024 phone review, on September 5, 2024, the Respondent issued a

written notice to the Appellant's address of record advising of the Appellant's responsibility to register with WorkForce WV by October 4, 2024.

The preponderance of evidence revealed that the Respondent notified the Appellant orally and in writing of his responsibility to register with WorkForce WV by October 4, 2024.

### **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 Respondent's representative reviewed the case comments and testified that the Appellant did not complete his WorkForce WV registration until November 4, 2024, after the SNAP ineligibility penalty had taken effect. The Appellant argued that he did not register before then because he believed he was exempt from the registration requirement.

The September 5, 2024 notice provided the Appellant with instruction to contact the Respondent if he believed he met one of the circumstances exempt from the WorkForce WV registration requirement. No evidence was submitted to indicate that the Appellant contacted the Respondent regarding his WorkForce WV registration before November 4, 2024.

The evidence established the Appellant's WorkForce WV registration requirement was orally explained and that the Appellant was notified in writing of his registration requirement. As the submitted evidence indicated the Appellant registered and notified the Respondent on November 4, 2024, the evidence failed to establish that the Appellant complied with his WorkForce WV registration requirement by October 4, 2024. Therefore, a second SNAP ineligibility penalty must be applied.

### **CONCLUSIONS OF LAW**

- 1) When a client fails to register with WorkForce WV and report the registration to the Respondent by the due date, the Respondent may implement a SNAP disqualification penalty period.
- 2) A previous SNAP ineligibility penalty period was applied to the Appellant.
- 3) 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.
- 4) The preponderance of evidence verified the Respondent issued a written notice and oral explanation of his responsibility to register with WorkForce WV by October 4, 2024.
- 5) The preponderance of evidence established the Appellant registered with WorkForce WV and notified the Respondent on November 4, 2024, after the onset of the ineligibility penalty period.



- 6) As the evidence revealed the Appellant failed to register with WorkForce WV by the October 4, 2024 due date, a second SNAP ineligibility penalty must be applied.

**DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's application of a second SNAP ineligibility penalty against the Appellant and subsequent termination of his SNAP benefits.

**ENTERED this 10<sup>th</sup> day of December 2024.**

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Tara B. Thompson, MLS  
**State Hearing Officer**