



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Earl Ray Tomblin
Governor

Michael J. Lewis, M.D., Ph.D.
Cabinet Secretary

August 12, 2011

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held August 10, 2011. Your hearing request was based on the Department of Health and Human Resources' action to terminate your Supplemental Nutrition Assistance Program (SNAP) benefits based on the imposition of a work sanction.

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 Health and Human Resources. These same laws and regulations are used in all cases to assure that all persons are treated alike.

SNAP eligibility is based on current policy and regulations. Some of these regulations state that a penalty is imposed when a non-exempt SNAP recipient fails to comply with a work requirement and does not have good cause. The minimum penalty must be served unless the client meets an exemption. For a first violation, the individual is removed from the Assistance Group for at least three months or until he meets an exemption, whichever is less. (West Virginia Income Maintenance Manual Section 13.6).

Information submitted at your hearing reveals that you failed to register with the Bureau of Employment Programs in a timely manner and the Department correctly imposed a penalty on your SNAP case.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to terminate your SNAP benefits.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Heather Grogg, ESS, DHHR

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
BOARD OF REVIEW**

-----,

Claimant,

v.

ACTION NUMBER: 11-BOR-1482

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES**

Respondent.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing for ----- . This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing was convened on August 10, 2011 on a timely appeal filed July 7, 2011.

It should be noted that benefits have not been continued pending a hearing decision.

II. PROGRAM PURPOSE:

The purpose of the Supplemental Nutrition Assistance Program (SNAP) is to provide an effective means of utilizing the nation's abundance of food "to safeguard the health and well-being of the nation's population and raise levels of nutrition among low-income households." This is accomplished through the issuance of benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

III. PARTICIPANTS:

-----, Claimant
Heather Grogg, Economic Service Supervisor, DHHR

Presiding at the hearing was Pamela L. Hinzman, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Department took the correct action in terminating the Claimant's SNAP benefits based on the imposition of a work requirement penalty.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Sections 13.2, 13.5 and 13.6

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Request for verification of BEP registration dated April 29, 2011
- D-2 Notice of Decision dated June 2, 2011
- D-3 WORKFORCE WV Case Activity List
- D-4 West Virginia Income Maintenance Manual Sections 13.2 and 13.5

Claimant's Exhibits:

- C-1 Notice to Extended Benefits Claimants from [REDACTED] dated June 11, 2010

VII. FINDINGS OF FACT:

- 1) The Claimant was a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits.
- 2) On April 29, 2011, the Department sent the Claimant a notice (D-1) informing him that he must register with the Bureau of Employment Programs (BEP) by May 28, 2011, as he is a mandatory work registrant.
- 3) DHHR Economic Service Supervisor Heather Grogg testified that the Claimant failed to register with the BEP and a minimum three-month penalty was imposed on his SNAP case effective July 2011. The Claimant was informed of the penalty and termination of his SNAP benefits in a Notice of Decision dated June 2, 2011 (D-2).
- 4) The Supervisor provided a WORKFORCE WV Case Activity List (D-3) that indicates the Claimant registered with the BEP on July 1, 2011, after the sanction was already imposed. The Claimant's most recent WORKFORCE WV activity prior to July 1, 2011 was in January 2004.
- 5) The Claimant testified that he had been receiving SNAP benefits since October 2009 when he moved from [REDACTED] to West Virginia. He indicated that he was receiving Unemployment Compensation Income (UCI) from [REDACTED] until June 2010 when he

6) West Virginia Income Maintenance Manual Section 13.5, A (D-4) states:

All mandatory individuals must register for employment with WORKFORCE WV/BEP, referred to in this section as BEP, within 30 days of the date of the original approval, unless exempt according to Section 13.2, or referred to SNAP E&T. Recipients must register every 12 months thereafter, regardless of the length of time that BEP considers the registration valid. Actions which constitute a registration are defined by BEP...

A recipient who fails to register by the due date established on the DFA-6 or verification checklist is subject to a SNAP penalty and the Worker must send an adverse action notice. If the Worker discovers or the client notifies the Worker that he registered anytime before the end of the month in which the adverse notice expires, the penalty is not imposed and any lost benefits are restored...

When an individual is added to the SNAP AG, or becomes subject to the SNAP work requirements due to the loss of an exemption listed below, he is required to register with BEP within 30 days of the date a DFA-6 or verification checklist (CMOB) is issued to the client, unless he has already registered for SNAP purposes within the past 12 months. See Section 13.2 for specific time requirements to complete registration.

SNAP EXEMPTIONS:

- caring for an incapacitated person,
- receipt of Unemployment Compensation,
- regular participation in a drug addiction or alcoholic treatment and rehabilitation program,
- employment, or
- receipt of WV WORKS.

7) West Virginia Income Maintenance Manual Section 13.6 states:

A SNAP penalty is imposed when the individuals listed below do not comply with a work requirement and do not have good cause...

A non-WV WORKS recipient who does not comply with the SNAP work requirements in Section 13.2-13.5 is subject to the following penalties.

The minimum penalty must be served unless the client meets an exemption. The penalty is never applied to an entire AG, only to the individual who does not comply. When the reported exemption ends, the client is subject to the original penalty, unless he has complied or meets another exemption...

A non-WV WORKS recipient who refuses or fails to register with BEP, cooperate with FSE&T, refuses employment or refuses to provide information about employment status and job availability is subject to the following penalties for at least the minimum penalty period or until he reports a change which makes him exempt from work requirements...

- First violation: The individual is removed from the AG for at least 3 months or until he meets an exemption, whichever is less. If after 3 months, the individual has not complied or met an exemption, the penalty continues until the failure or refusal stops, or until the individual reports a change that makes him exempt according to Section 13.2, A, 2 for some reason other than UCI-related activities.

VIII. CONCLUSIONS OF LAW:

- 1) Policy reveals that all non-WV WORKS recipients who are mandatory work registrants must register with WORKFORCE WV/BEP to maintain SNAP eligibility once every 12 months. If a mandatory work registrant fails to register with BEP, he is removed from the Assistance Group for three months or until he reports a change that makes him exempt. The minimum penalty must be served unless the client reports an exemption.
- 2) While the Claimant maintains he did not receive notification from the Department requesting that he complete BEP registration, the Department provided verification of the letter sent to him on April 29, 2011 requesting the documentation. The Claimant's BEP registration was due on May 28, 2011, however the Department verified that he did not register until July 1, 2011, following imposition of the penalty. Although the Claimant indicated he is registered for work programs in [REDACTED] policy specifically requires mandatory work registrants to register with WORKFORCE WV/BEP.

- 3) Based on documentation and testimony offered during the hearing, the Department acted correctly in imposing a penalty to the Claimant's SNAP benefits.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Department in terminating the Claimant's SNAP benefits based on the imposition of a work penalty.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 12th Day August, 2011.

**Pamela L. Hinzman
State Hearing Officer**