



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 Washington Street, West
Charleston, WV 25313

Earl Ray Tomblin
Governor

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

September 30, 2011

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held September 29, 2011. Your hearing request was based on the Department of Health and Human Resources' action to deny your right to apply for SNAP during the month of June 2011.

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.

Eligibility for SNAP is based on current policy and regulations. Some of these regulations state that every person must be afforded the opportunity to apply for all Programs on the date he expresses his interest. (West Virginia Income Maintenance Manual Section 1.2.A.1)

The totality of the information submitted at your hearing supports that you requested to apply for SNAP on June 9, 2011, at the Kanawha County Department of Health and Human Resources office in Charleston, West Virginia, and were denied the right to apply on that date.

It is the decision of the State Hearing Officer to **reverse** the action of the Department in denying your right to apply for SNAP. The Department will within 10 days notify you of what is needed in order to evaluate your SNAP eligibility beginning with the application date of June 9, 2011. You will have the right to appeal any unfavorable decision made by the Department in this matter.

Sincerely,

Cheryl Henson, State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Tera Pendleton, [REDACTED] DHHR

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 11-BOR-1745

**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 September 29, 2011.

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

██████████ Claimant's witness

Tera Pendleton, Department representative

Presiding at the Hearing was Cheryl Henson, 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 was correct in its action to deny the Claimant the right to apply for SNAP during June 2011.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual §1.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Case comments from Department's computer system
- D-2 Employment screen prints from Department's computer system
- D-3 Verification Checklist notification letter dated July 5, 2011
- D-4 Notification letter dated August 8, 2011
- D-5 West Virginia Income Maintenance Manual §4.1.A
- D-6 Reception Log Entry for Claimant for date of June 9, 2011

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The issue for this hearing is to determine if the Department denied the Claimant the right to apply for SNAP.
- 2) The Claimant contends that she visited the ██████████ County Department of Health and Human Resources office, located in ██████████ West Virginia, on three occasions in an attempt to apply for SNAP. She stated that her first attempt was during May 2011 and that after speaking to an employee on that day and after being informed that her household's countable income for May 2011 would be excessive, she was instructed and agreed to return during the month of June 2011 to apply for the program. She explained that both she and her husband had recently lost jobs for various reasons and that they expected to receive income from those jobs during the month of May 2011. She added that the employee suggested that she bring letters or other forms of documentation from the prior employers in order to verify the employment had ended when she returned in June 2011.

- 3) The Claimant returned (D-6) to the [REDACTED] office on June 9, 2011 and registered with the front desk, indicating she wished to apply for SNAP on that date. The front desk records (D-6) verify that she registered that day and asked to apply for SNAP. Instead of accepting an application from the Claimant on that date, the Claimant contends that the employee she met with told her that there was “no sense in applying” because the application would be denied, and instructed her to come back yet again the following month. She stated that she had the letters verifying loss of employment with her on that date, but added that the worker did not look at them. It is not clear why the employee informed the Claimant that an application on that date would be denied, nor is it clear why she instructed the Claimant to return the following month to submit an application, as no further documentation of the visit was found. The Claimant indicated that she was confused by this instruction; however, because she had little knowledge of the process she complied. The record shows that the Claimant had never before applied for benefits with the Department.
- 4) The Claimant returned to the [REDACTED] office on July 5, 2011, and at that time an employee accepted her application for SNAP. The Claimant stated that she discussed her prior attempts to apply with the employee and that he advised her of her right to a hearing on the issue. She stated that she requested a hearing shortly thereafter, but could not remember exactly when she requested the hearing. She stated that she was confused as to whether the employee had accepted her application on July 5, 2011; however, the record shows that an application was accepted on July 5, 2011, and that a verification checklist was provided to the Claimant on that date (D-3) which informed her that verification of her husband’s employment income was needed in order to establish her eligibility. The application was denied on August 5, 2011, and the Department sent the Claimant a notification letter (D-4) which informed her that the application was denied because she did not verify her husband’s earnings. The Claimant reported during the hearing that she was in the process of moving during the month of August 2011 and that she does not recall receiving the denial notice.
- 5) The parties agree that the Claimant did not return the requested employment verification. The Claimant stated that she did not return the information because she believed that it would all be cleared up at the hearing.
- 6) The Department witness, Samuel Swisher, is the employee who interviewed the Claimant on July 5, 2011. He testified that he recalls discussing the prior attempts made by the Claimant to apply for SNAP, and that he also spoke with the worker involved in the June 2011 attempt at SNAP application. He indicated that this employee is no longer employed with the Department, but that he recalled her telling him that there was an issue with the Claimant’s income, or anticipated income. He stated that he did not understand why the employee did not accept the Claimant’s application during her June 2011 attempt.
- 7) The West Virginia Income Maintenance Manual §1.2.A.1, states in pertinent part:

A. APPLICANT AND POTENTIAL APPLICANT’S RIGHTS

In addition to addressing all questions and concerns the client may have, the Worker must explain the benefits of each Program and inform the client of his right to apply for any or all of them.

1. Right to Apply

No person is denied the right to apply for any Program administered by the Division of Family Assistance (DFA). Every person must be afforded the opportunity to apply for all Programs on the date he expresses his interest.

VIII. CONCLUSIONS OF LAW:

- 1) The question before the Board of Review is whether the evidence shows that the Claimant was denied the right to apply for SNAP during the month of June 2011.
- 2) Policy provides that in addition to addressing all questions and concerns the client may have, the Worker must explain the benefits of each Program and inform the client of his right to apply for any and all of them. No person is denied the right to apply for any program administered by the Division of Family Assistance (DFA). Every person must be afforded the opportunity to apply for all programs on the date he expresses his interest.
- 3) The evidence is clear in that the Department did not afford the Claimant her right to apply for SNAP on June 9, 2011. The evidence clearly shows that she registered at the [REDACTED] office's front desk on June 9, 2011, and that she requested to apply for SNAP at that time. Testimony from the witnesses also supports that the Claimant's intention on that date was to apply for SNAP. Additionally, the evidence shows that the Claimant's information was not entered into the Department's computer system as an application until July 5, 2011, when the Claimant made yet another trip to the Department's [REDACTED] office to apply. The evidence supports that the Department did not allow the Claimant to complete the application process on June 9, 2011, and by doing so denied the Claimant the right to apply.

IX. DECISION:

It is the decision of the State Hearing Officer to **reverse** the Department's action to deny the Claimant the right to apply for SNAP on June 9, 2011. The Department will within 10 days notify the Claimant in writing of what is needed in order to evaluate the Claimant's SNAP eligibility beginning with the application date of June 9, 2011. The Department will make a new determination based on the June 9, 2011 application date. The Claimant will have new appeal rights to any unfavorable decision made by the Department in this matter.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 30th Day of September, 2011.

**Cheryl Henson
State Hearing Officer**