



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Earl Ray Tomblin
Governor

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

December 7, 2011

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held December 6, 2011. Your hearing request was based on the Department of Health and Human Resources' decision to deny your Supplemental Nutrition Assistance Program (SNAP) application due to the imposition of a penalty.

In arriving at a decision, the State Hearings 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. These regulations specify that a SNAP penalty is applied to individuals who are mandatory to meet work requirements for failure to register with the Bureau of Employment Programs. The minimum penalty must be served unless the individual meets an exemption in policy (WV Income Maintenance Manual § 13.5 A).

The information submitted at your hearing revealed that at the time of your October 2011 SNAP application, you were under a SNAP penalty and did not meet an exemption as listed in policy.

It is the decision of the State Hearings Officer to **Uphold** the action of the Department to deny your October 2011 SNAP application.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

cc: Chairman, Board of Review
Fred Burns, Economic Service Supervisor

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

IN RE: -----,

Claimant

v.

ACTION NO.: 11-BOR-2070

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

Respondents

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on December 6, 2011 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 a timely appeal, filed October 7, 2011.

II. PROGRAM PURPOSE:

The program entitled Supplemental Nutrition Assistance Program is administered by the West Virginia Department of Health and Human Resources.

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

-----, Witness for Claimant

-----, Witness for Claimant

Fred Burns, Economic Service Supervisor

Presiding at the Hearing was Kristi Logan, State Hearing Officer and a member of the Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department's decision to deny Claimant SNAP benefits was correct.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 1.4, 13.2 A and 13.5 A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Verification Request dated June 24, 2011
- D-2 Notification Letter dated July 28, 2011
- D-3 WV Income Maintenance Manual § 13.2 A and 13.5 A
- D-4 SNAP Work Requirement Sanction Request (AIFJ) Screens from RAPIDS Computer System

VII. FINDINGS OF FACT:

- 1) Claimant applied for SNAP benefits in June 2011. Claimant was required to register with job service with the Bureau of Employment Programs (BEP) as a condition of her continued eligibility for SNAP. The Department issued a notification letter to Claimant on June 24, 2011 advising that she must register with job service by July 23, 2011 (D-1).
- 2) Claimant failed to provide verification that she had registered with job service. A second SNAP penalty was imposed against Claimant's SNAP benefits effective August 2011 for six (6) months (D-2 and D-4).
- 3) Claimant reapplied for SNAP benefits on October 7, 2011. The application was denied as the SNAP penalty had not expired and Claimant was the only individual in the assistance group.
- 4) Fred Burns, Economic Service Supervisor, testified Claimant would not be eligible for SNAP until the penalty period expired or unless she met one (1) of the exemptions from work requirements as found in policy.
- 5) Claimant testified she did not realize she had already had one (1) previous SNAP penalty. Claimant stated her daughter, [REDACTED] was born [REDACTED] Claimant

stated she was already receiving a medical card for [REDACTED] which was opened by the hospital worker after her birth.

6) WV Income Maintenance Manual § 13.5 A(1) 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.

Once the client registers with BEP for SNAP purposes, he cannot be required to register more often than every 12 months, even when the benefit is opened and closed within the 12-month period. This is tracked through RAPIDS.

The Worker must complete the appropriate RAPIDS screens at any point during the certification period when the recipient is due to register with BEP. Completion of this screen will send a verification checklist (CMOB) which gives the client 30 days notice prior to the due date to register.

When the Worker discovers that 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 prior to the new due date.

The Worker must not delay completion of a redetermination due to BEP registration requirements. If the applicant is currently in a SNAP penalty for failure to register and has completed his minimum penalty time, he must be given the opportunity to register prior to benefit approval. If he continues to refuse or fails to register, his penalty continues. See Section 13.6.

Prior to approval, an individual who verbally refuses to register with BEP is ineligible until he registers or meets an exemption to the work requirements.

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,
- self-employment, or
- receipt of WV WORKS

7) WV Income Maintenance Manual § 13.6 A(2) states:

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.

Penalties are applied sequentially, regardless of the requirement not met. In addition, penalties are applied consecutively and one penalty must end before another one is imposed.

A non-WV WORKS recipient who refuses or fails to register with BEP, 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 the work requirements. See Section 13.2 for exemptions.

- 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 for some reason other than UCI-related activities.

- Second violation: The individual is removed from the AG for at least an additional 6 months or until he meets an exemption, whichever is less. If after the 6 months, the individual has not complied or met an exemption, the penalty continues until the failure or refusal ceases, or

until the individual reports a change that makes him exempt according to Section 13.2 for some reason other than UCI-related activities.

- Third and subsequent violations: The individual is removed from the AG for at least an additional 12 months or until he meets an exemption, whichever is less. If after the 12 months, the individual has not complied or met an exemption, the penalty continues until the failure or refusal ceases, or until the individual reports a change that makes him exempt according to Section 13.2 for some reason other than UCI-related activities.

8) WV Income Maintenance Manual § 1.4 A states:

When an individual's SNAP work requirement penalty expires, or he becomes exempt, he is added to the AG, if otherwise eligible, without having to complete an application, unless he is the sole AG member.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that all individuals mandatory for work requirements must register with the Bureau of Employment Programs or a SNAP penalty is applied.
- 2) Claimant was under a second SNAP penalty for failure to register with the Bureau of Employment Programs when she applied for SNAP in October 2011. Claimant was not eligible to receive SNAP benefits until she registered or met one of the exemptions listed in policy. As of the date of application, Claimant had not registered and did not meet an exemption.
- 3) The Department correctly denied Claimant's October 2011 SNAP application.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to deny Claimant SNAP benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision
Form IG-BR-29

ENTERED this 7th day of December 2011.

**Kristi Logan
State Hearing Officer**