



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General**

Board of Review
P.O. Box 1736
Romney, WV 26757

**Earl Ray Tomblin
Governor**

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

November 17, 2011

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held November 17, 2011. Your hearing request was based on the Department of Health and Human Resources' decision 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.

Eligibility for SNAP benefits is based on current policy and regulations. These regulations provide that all mandatory individuals must register for employment with WORKFORCE WV/BEP within 30 days of the date of the original approval, unless exempt. Recipients must register every 12 months thereafter, regardless of the length of time that BEP considers the registration valid. 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 Chapter 13.5 and 13.6).

The information which was submitted at your hearing revealed that you failed to meet your work registration requirements by the required date; therefore, the Department was correct in its decision to impose a penalty against your SNAP benefits for October, 2011 through December, 2011.

It is the decision of the State Hearing Officer to Uphold the action of the Department to terminate SNAP benefits based on the imposition of a work registration penalty.

Sincerely,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review
Cindy Myers, Family Support Supervisor

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

IN RE: ----- ,

Claimant,

v.

ACTION NO.: 11-BOR-2222

**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 a timely appeal, filed October 17, 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
Pamela Moreland, Economic Service Worker

Presiding at the hearing was Eric L. Phillips , 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 was correct in its decision to impose a penalty against the Claimant's SNAP benefits for failing to register with the Bureau of Employment Programs.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter 13.5-13.6

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Verification Checklist dated August 1, 2011
- D-2 West Virginia Income Maintenance Manual Chapter 13.5
- D-3 Workforce West Virginia Case Activity List
- D-4 Notice of Decision dated August 30, 2011
- D-5 West Virginia Income Maintenance Manual Chapter 13.6

VII. FINDINGS OF FACT:

- 1) The Claimant was a recipient of Supplemental Nutrition Assistance Program benefits, hereinafter SNAP, and was required to register with the Bureau of Employment Programs, hereinafter BEP, as a mandatory work registrant.
- 2) On August 1, 2011, the Claimant was issued Exhibit D-1, Verification Checklist, informing her of the requirement to register with BEP. This notice documents in pertinent part:

All Supplemental Nutrition Assistance Program (SNAP) recipients from whom registration for work with the Bureau of Employment Programs (BEP) is required, must complete this mandatory registration within 30 days of the date their SNAP application is approved and every 12 months after that.

This requirement affects individuals in this case. Our records show that the following individuals need to register with BEP by the dates listed:

----- 8/28/11

If you do not register by this date, but prior to the end of the month in which the registration is due, you must notify your Worker.

You must contact your worker if any of the individuals listed are unable to work. Reason for exemption from this requirement are as follows:

- Receiving SSI
- Physical or mental inability to work
- Employed 30 hours per week
- In a Drug or Alcohol Treatment Program

Enrolled School/Training at least ½ time
Receiving minimum earnings equal to 30 hours per week
Receiving Unemployment Compensation
Caring for child under Age 6
Caring for incapacitated person

3) Ms. Pamela Moreland, Economic Service Worker testified that the Claimant failed to register with BEP by the required date and a minimum three-month penalty was imposed on the Claimant's SNAP benefits effective October, 2011 through December, 2011.

4) On August 30, 2011, the Claimant was issued Exhibit D-4, notifying her of the imposed penalty. Exhibit D-4 documents in pertinent part:

A Supplemental Nutrition Assistance Program (SNAP) work requirement penalty has been applied to ----- . The reason for this penalty is because of FAILURE TO REGISTER W/BEP. This is penalty number 1, ----- will remain ineligible for SNAP benefits for 3 MONTHS OR UNTIL COMPLIANCE, WHICHEVER IS LONGER.

5) Ms. Moreland provided Exhibit D-3, Workforce West Virginia Case Activity List which demonstrates that the Claimant registered with BEP on October 17, 2011, after the imposed sanction. This exhibit documents the Claimant's previous contact with Workforce West Virginia was August, 2010. Ms. Moreland testified that the Claimant made an office visit to the ██████ County Department of Health and Human Resources on October 17, 2011, and registered with BEP during that visit. Ms. Moreland testified that the imposed sanction could not be removed according to policy.

6) The Claimant contended that she did not receive the notification requiring her to register with BEP. However, the Claimant did indicate that she was out of town with a relative and had a friend pick up her mail. The Claimant indicated that she had a disagreement with her friend and some of the mail may have been lost. The Claimant purported that she has no income or food and the lack of SNAP assistance has adversely affected her health.

7) West Virginia Income Maintenance Manual Chapter 13.5 (Exhibit D-2) documents in pertinent part:

All mandatory individual 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 list 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, he is required to register with BEP within 30 days of the date or verification checklist is issued to the client, unless he has already registered for SNAP purposes within the past 12 months.

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

- 8) West Virginia Income Maintenance Manual Chapter 13.6 (Exhibit D-5) documents in pertinent part:

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 her reports a change which makes him exempt from the 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 for some reason other than UCI-related activities.

VIII. CONCLUSIONS OF LAW:

- 1) Policy concludes 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) The Department provided verification that notification was issued to the Claimant on August 1, 2011, requesting her to provide verification of her registration with BEP by August 28, 2011. While the Claimant contends she did not receive the notification information of the requirement, she did indicate a disagreement with an individual responsible for collecting her mail while she was out of town and the notification may have been lost. There was no evidence to suggest that such notices were not returned by the Post Office nor did the Claimant relate any problems with her mail to the Department. Evidence indicates that the Claimant received such notices from the Department and failed to comply. Although the Claimant did provide registration with BEP after the imposed sanction, policy requires that the sanction cannot be removed and the penalty must be fulfilled.
- 3) Based on testimony and evidence presented during the hearing, the Department acted correctly in imposing a penalty towards 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 _____ day of November , 2011.

Eric L. Phillips
State Hearing Officer