



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
203 East Third Avenue
Williamson, WV 25661

Earl Ray Tomblin
Governor

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

February 23, 2011

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 11, 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.

Eligibility for the SNAP Program is based on current policy and regulations. Some of these regulations state as follows: 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 or she 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,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review
Jane Scott, ESW, WV DHHR, [REDACTED] County Office

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

-----,

Claimant,

v.

Action Number: 10-BOR-2391

**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 February 11, 2011 on a timely appeal filed December 10, 2010. The hearing was originally scheduled for January 27, 2011, but was rescheduled at Claimant's request.

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

Jane Scott, Economic Service Worker, WV DHHR, ██████████ County Office

Presiding at the hearing was Stephen M. Baisden, State Hearing Officer and 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 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 Form IG-BR-29, Hearing Request on Claimant's behalf, sent by Economic Service Worker at WV DHHR, ██████████ County Office, to Board of Review
- D-2 Form DFA-FH-1, Request for Fair Hearing, signed by Claimant on December 10, 2010
- D-3 Hearing Summary completed by Department's Representative
- D-4 Letter from Economic Service Worker, WV DHHR, ██████████ Office, to Claimant, dated September 29, 2010
- D-5 Letter from Economic Service Worker, WV DHHR, ██████████ Office, to Claimant, dated November 8, 2010
- D-6 Letter from Economic Service Worker, WV DHHR, ██████████ Office, to Claimant, dated December 7, 2010
- D-7 West Virginia Income Maintenance Manual Section 13.2
- D-8 West Virginia Income Maintenance Manual Section 13.5
- D-9 West Virginia Income Maintenance Manual Section 13.6
- D-10 WorkForce West Virginia registration print-out

VII. FINDINGS OF FACT:

- 1) West Virginia Income Maintenance Manual Section 13.2.A (Exhibit D-7) states:

All SNAP recipients are subject to a work requirement, unless exempt . . .

WORK REQUIREMENTS: Registration with BEP [the Bureau of Employment Programs]. Failure of an individual to register within the time limits found in Section 13.5.A and each 12 months results in application of a penalty for not meeting the work requirement . . .

EXEMPTIONS FROM SNAP WORK REQUIREMENTS: The following SNAP recipients are exempt for the SNAP work requirements and are not subject to a SNAP penalty for failure to comply.

- A person under age 16;
- A person age 16 or 17 who is not the SNAP payee;

- A person age 16 or 17 who is attending school or enrolled in an employment training program on at least a half-time basis;
- A person enrolled at least half-time in any recognized school, training program or institution of higher education;
- A person age 60 or over;
- A parent or other member of the [assistance group] who has the responsibility for the care of a child under the age of 6, or of an incapacitated and/or disabled individual;
- Individuals receiving [unemployment benefits];
- Individuals who are physically or mentally unfit to engage in full-time employment;
- Regular participants in a drug addiction or alcoholic treatment and rehabilitation program;
- Individuals who are employed or self-employed and working a minimum of 30 hours per week;
- Individuals who receive WV WORKS [cash assistance].

2) West Virginia Income Maintenance Manual Section 13.5.A (Exhibit D-8) states:

All mandatory individuals must register with BEP for employment within 30 days of the date of the original approval, unless exempt according to Section 13.2, or referred to FSE&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 ES-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 must not be imposed and any lost benefits will be restored.

3) West Virginia Income Maintenance Manual Section 13.6 (Exhibit D-9) 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 refused 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.

- 4) On September 29, 2010, the Department sent Claimant, a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits, a notice (Exhibit D-4) informing him that he must register with the Bureau of Employment Programs (BEP) by October 28, 2010, as he is a mandatory work registrant. The letter was sent to -----, -----. Claimant testified that this is his correct mailing address.
- 5) Department's representative testified that Claimant failed to register with BEP and a minimum three-month penalty was imposed on his SNAP case effective December 2010. Since Claimant was the only member of his SNAP assistance group, this sanction resulted in case closure. Claimant was informed of the penalty and termination of his SNAP benefits in a Notice of Decision dated November 8, 2010. (Exhibit D-5). She further testified that another Economic Service Worker, unaware of the SNAP sanction, erroneously performed a SNAP telephone review with Claimant on December 6, 2010. On December 7, 2010, another letter was sent to Claimant which informed him of the sanction and closure of the SNAP benefits effective December 2010. (Exhibit D-6.) Department's representative added that Claimant contacted DHHR's Southern Customer Service Center to inquire as to why he had received no SNAP benefits for that month; at that time he was informed of the sanction and called the [REDACTED] County office of the WV DHHR to request a fair hearing.
- 6) Claimant testified that he did not receive the September 29, 2010 notice requesting that he provide verification of BEP registration. He stated that he did not know if there was a problem with the postal service which sorts and distributes the mail at his apartment building, or if the problem lies at the [REDACTED] County DHHR. He added that he has been receiving SNAP benefits since 2008, and this is the first time that he was informed that this was a necessary component of SNAP receipt.

VIII. CONCLUSIONS OF LAW:

- 1) Policy reveals that all non-WV WORKS recipients who are mandatory work registrants must register with 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 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 September 29, 2010 requesting the documentation. Claimant's BEP registration was due on October 28, 2010; however he did not provide it to the Department by that date.
- 3) Based on documentation and testimony offered during the hearing, the Department acted correctly in imposing a penalty to Claimant's SNAP benefits.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Department in terminating 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 23rd Day of February, 2011.

**Stephen M. Baisden
State Hearing Officer**