



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
Post Office Box 1736
Romney, WV 26757**

**Joe Manchin III
Governor**

**Martha Yeager Walker
Secretary**

November 3, 2005

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 22, 2005. Your hearing request was based on the Department of Health and Human Resources' decision to apply a Food Stamp penalty against _____ for quitting a full time job without good cause.

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 the Food Stamp program is based on current policy and regulations. Some of these regulations state as follows: An applicant who voluntarily quits employment is ineligible for 3 months unless good cause is established.

The information, which was submitted at your hearing, revealed that _____ quit a full time job and that good cause for quitting the job was not established within the time period allowed.

It is the decision of the State Hearing Officer to uphold the action of the Department to apply a Food Stamp sanction to your case.

Sincerely,

Sharon K. Yoho
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Richendollar, DHHR

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

_____,

Claimant,

v.

Action Number: 05-BOR-6490

**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 concluded on September 22, 2005 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 22, 2005 on a timely appeal, filed August 23, 2005.

It should be noted here that the client's benefits have not been continued pending a hearing decision as the hearing request was not made within 13 days of the notification letter.

II. PROGRAM PURPOSE:

The Program entitled Food Stamps is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The purpose of the Food Stamp Program 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 EBT 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's witnesses:

_____, claimant

Department's witnesses:

Beth Richendollar, Income Maintenance Worker

Presiding at the Hearing was Sharon K. Yoho, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether the Agency was correct in their actions to apply a Food Stamp penalty for quitting a full time job without good cause being established.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Policy § 13.3 A. & 13.3 C.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 List of medication provided by Dr. [REDACTED] dated August 11, 2005
- D-2 Verification Checklist dated June 21, 2005
- D-3 Case comments dated June 21, 2005 thru August 23, 2005
- D-4 Notice of Food Stamp penalty dated July 7, 2005
- D-5 West Virginia Income Maintenance Manual Policy § 13.3
- D-6 Statement of reason for quitting dated June 27, 2005 received July 6, 2005

Claimant's Exhibits:

- C-1 Information obtained by the World Wide Web regarding side affects of Cymbalta

VII. FINDINGS OF FACT:

- 1) Ms. _____ contacted the Customer Service Center on June 21, 2005 to report that her husband, _____ had quit his job. She reported that her husband had a problem with a co-worker and the employer was going to suspend for three (3) days. _____ was working an average of 38 hours per week.
- 2) On June 21, 2005, the Department sent a notice of information needing verified for continued eligibility determination for the Food Stamp program. Among the requested verification was proof of good cause for losing employment. This notice advised that the claimant must provide the information by July 1, 2005.
- 3) No information was received by the July 1, 2005 deadline.
- 4) On July 7, 2005 a note, written by _____, was received by the Customer Service Center. This note advised the Department that her husband's medication to control mood swings had been changed one week before the verbal altercation with a co-

worker and the subsequent quitting of his job. She reported that his Doctor changed his medication back to his previous medication one week later. Her written statement advised the Department that if they wanted to verify this information they could contact Mr. _____'s Doctor.

- 5) On July 7, 2005, the Department sent a notice of Food Stamp decrease due to a voluntary quit penalty being applied to the case.
- 6) Ms. _____ did not attempt to provide verification from Mr. _____'s Doctor of his mental problems or the affects it might have on his ability to perform employment.
- 7) Ms. _____ requested a hearing on July 28, 2005.
- 8) On August 23, 2005, Ms. _____ provided a list of medication and dates prescribed which Mr. _____'s Doctor signed.
- 9) The medication, which _____ was taking during the week of his quitting his job, was Cymbalta. The claimant, during this hearing, provided information regarding side affects of this medication. The side affects indicate that Mr. _____'s hostile behavior may have been attributed to his medication.

7) **West Virginia Income Maintenance Manual § 13.3 - FOOD STAMP VOLUNTARY QUIT:**

A. VOLUNTARY QUIT DEFINITION

An applicant who voluntarily quits employment is ineligible for 3 months; a penalty is applied to an active recipient.

C. GOOD CAUSE FOR VOLUNTARY QUITTING

Once a determination is made that the client voluntarily quit, the Worker determines if the individual had good cause for leaving employment. If any of the following are met, good cause is established.

- The individual is physically or mentally unfit to perform the employment, as established by documented medical evidence or reliable information provided by another identifiable source.

VIII. CONCLUSIONS OF LAW:

- 1) Policy is clear in Chapter 13.3 that if a client voluntarily quits employment and does not provide documentation to prove he had good cause for quitting, he must be penalized from receiving Food Stamps for three (3) months.
- 2) The information, which Ms. _____ provided on July 7, 2005, was not documented evidence. It was a statement of her beliefs that her husband's mental state of mind was adversely affected by medication. She only advised the Department as to where they may obtain verification. This July 7th date was beyond the July 1st date in which the verification was to be provided to avoid adverse action to her Food Stamp case.

IX. DECISION:

I find that the claimant was not timely in responding to a request for verification needed to avoid the adverse action proposed by the Department and further, she did not provide the needed verification later. I rule to **uphold** the Department in its action to decrease the claimant's Food Stamp benefits by applying a three (3) months penalty.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 3rd Day of November 2005.

Sharon K. Yoho
State Hearing Officer