



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P. O. Box 2590
Fairmont, WV 26555-2590

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

September 13, 2006

Dear _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 31, 2006. Your hearing request was based on the Department of Health and Human Resources' proposal to reduce your Food Stamp benefits based on the imposition of a sanction/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 the Food Stamp Program is based on current policy and regulations. Some of these regulations state that a Food Stamp penalty is imposed when individuals do not comply with work requirements. For a First violation, the individual is removed from the AG for a minimum of 3 months. If non-compliance continues, the penalty continues until the failure or refusal stops, or until the individual reports a change that makes her exempt. (West Virginia Income Maintenance Manual section 13.2 & 13.6)

The information submitted at your hearing reveals that you failed to comply with Food Stamp Work requirements when you did not cooperate with your FSE&T Worker.

It is the decision of the State Hearings Officer to uphold the proposal of the Agency to apply a Food Stamp penalty effective October 1, 2006.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Angela Hammonds, ESW, DHHR

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

_____,
Claimant,

v.

Action Number: 06-BOR-1961

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 13, 2006 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 July 31, 2006 on a timely appeal, filed May 23, 2006.

It should be noted here that the claimant's benefits have been continued at the previous level pending a hearing decision.

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
_____, Claimant's friend
Angela Hammonds, ESW
Jeannie Richards, FSE&T Worker

Presiding at the Hearing was Thomas Arnett, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether the Agency was correct in its proposal to reduce the Claimant's Food Stamp benefits by imposing a Food Stamp penalty.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 13.2, 13.3 & 13.6
7 CFR § 273 Code of Federal Regulations

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

D-1 Department's Hearing Summary
D-2 Notice of Decision dated 5/19/06
D-3 WVIMM, Chapter 13.3 & 13.6
D-4 Claimant's FSE&T files

VII. FINDINGS OF FACT:

- 1) On or about May 19, 2006, the Claimant was notified via a Notice of Decision (D-2) that his Food Stamp benefits were going to decrease from \$193 to \$67 per month effective June 1, 2006 for Failure to comply with Food Stamp Employment & Training, hereinafter FSE&T. Because the Claimant requested a hearing within 13 days of adverse action notice, and requested that benefits continue, Food Stamp benefits have continued at the pre-hearing amount.
- 2) The Department presented testimony to indicate that the Claimant was appealing the proposed 3-month penalty because he is alleging that he was not given any information about FSE&T and therefore should not be penalized for non-compliance. The Department indicated that the penalty would not have been imposed if the Claimant would have complied prior to May 31, 2006, but because the Claimant failed to come into compliance, the penalty imposed. The Department cited appropriate policy and entered a printed copy of the policy into evidence.

- 3) The Department submitted Exhibit D-4 in order to show that the Claimant is aware of Food Stamp work requirements and the FSE&T Program.
- 4) Jeanie Richards, FSE&T Worker, testified that a FSE&T Personal Responsibility Plan, hereinafter PRP, was completed and signed by the Claimant on March 22, 2006. The PRP explains FSE&T requirements as it pertains to Food Stamp eligibility and the sanction/penalty process for non-compliance. As noted in the Self-Sufficiency Plan, which is part of the PRP, the Claimant agreed to complete an employer job search form and return it to his FSE&T Worker on April 24, 2006 @ 11:00 a.m. Ms. Richards testified that she did not see the Claimant after the initial visit on March 22, 2006, and he did not call or submit an employer contact form.
- 5) The Claimant testified that he completely forgot about the date in which he was supposed to meet with his FSE&T Worker. He stated that he did not receive the Notice of Decision, however, this statement is not credible as the Claimant's appeal was filed within 5 days of notice. Further more, all appellate rights, including continued benefits, have been afforded to the Claimant.
- 6) West Virginia Income Maintenance Manual Chapter 13.2 (Work Requirements - Cooperation with FSE&T). FSE&T requirements are met for applicants who agree to cooperate with FSE&T. Failure to agree results in ineligibility of the individual until he complies or reports a change which makes him exempt. This section of policy provides reasons for which an individual can be found exempt from participation (employment, disability, etc. . .) Failure to cooperate with FSE&T results in the application of a penalty for failure to meet the work requirement.
- 7) West Virginia Income Maintenance Manual, Chapter 13.6 states in part: A Food Stamp penalty is imposed when individuals do not comply with work requirements. Penalties are: First violation: The individual is removed from the AG for a minimum of 3 months. If non-compliance continues, the penalty continues until the failure or refusal stops or until the individual reports a change that makes him exempt.

VIII. CONCLUSIONS OF LAW:

- 1) The policy and regulations that govern the Food Stamp Program direct that recipients who are not otherwise exempt (employed, disabled, etc. . .), must meet Food Stamp work requirements (FSE&T). The determination has been made that the Claimant is not exempt from FSE&T.
- 2) As a condition of eligibility, the Claimant signed his PRP and agreed to complete and return his employer job search form to the FSE&T Worker on April 24, 2006. The Claimant did not return the employer contact form and did not make contact with his FSE&T Worker before the sanction was imposed.
- 3) Because the Claimant failed to cooperate with FSE&T, the Department was correct to impose a Food Stamp sanction/penalty for non-compliance with Food Stamp work requirements.

IX. DECISION:

Based on evidence presented during the hearing and the applicable policy and regulations, the Department's proposal to apply a Food Stamp penalty is **upheld**. The penalty will be effective October 2006.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 13th Day of September, 2006.

**Thomas E. Arnett
State Hearing Officer**