



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
PO Box 6165
Wheeling, WV 26003

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

December 14, 2006

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 6, 2006. Your hearing was based on the Department of Health and Human Resources' action to remove _____ from your Food Stamp budget group resulting in a decrease in the household Food Stamp allotment.

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 Stamps is based on current policy and regulations. Some of these regulations state as follows: According to Income Maintenance Manual section 13.2, 13.5 and 13.6 all Food Stamp recipient are subject to a work requirement, unless exempt. All Mandatory individuals must register with BEP for employment within 30 days of the date of approval. Penalties for failure to register with BEP will apply.

The information submitted at your hearing revealed: On July 19, 2006 you completed a review of your Food Stamp case. At that time a verification request checklist was given to you to supply needed information by July 29, 2006 to reevaluate your case. Among the items required was proof that _____ had registered with BEP. The registration for BEP was not completed by Mr. _____ and a notification was issued to you advising of Mr. _____'s removal from the budget group and the resulting reduction in food stamp benefits. Your testimony indicated that Mr. _____ is unable to work, however no medical report or statement from a medical physician was provided to exempt Mr. _____ from the work requirement.

It is the decision of the State Hearings Officer to **UPHOLD** the action of the Department to reduce your Food Stamp benefits due to the removal of _____ from the Food Stamp benefit group for failure to register with BEP or provide proof to exempt him from the registration.

Sincerely,

Melissa Hastings
State Hearing Officer
Member, State Board of Review

cc: State Board of Review
Zeigler,DHHR

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

_____,
Claimant

v.

Action Number: 06-BOR-3070

**West Virginia Department of Health
And Human Resources,
Respondent**

DECISION OF THE STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a Fair Hearing concluded on December 6, 2006 for Ms. _____. 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 December 6, 2006 on a timely appeal filed October 1, 2006.

It should be noted here that the proposed action on this case has been taken.

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 husband
Linda Zeigler – DHHR representative

Presiding at the Hearing was Melissa Hastings, 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 Department was correct in their decision to remove _____ from the Food Stamp AG resulting in a decrease in Food Stamp benefits for the household.

V. APPLICABLE POLICY:

WV Income Maintenance Manual Section 13.2, 13.5, 13.6

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

DHS-1 Verification Checklist addressed to claimant dated 07/19/06
DHS-2 Notice of Decision addressed to claimant dated 08/02/06
DHS-3a West Virginia Income Maintenance Manual section 13.2.
DHS-3b West Virginia Income Maintenance Manual section 13.5
DHS-3c West Virginia Income Maintenance Manual section 13.6.

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) Evidence and testimony indicate that Claimant's Food Stamp case was undergoing a periodic reevaluation on July 19, 2006. _____, claimant's husband, was reported to be currently unemployed and unable to work due to a back injury.
- 2) Claimant was issued a Verification Checklist at the end of the reevaluation interview requesting several items that must be provided to continue Food Stamp benefits for the household. **(DHS1)** Testimony of the department's representative indicates that among the items requested was either a doctor's statement indicating Mr. _____'s inability to work or proof of registration with BEP.
- 3) Testimony of the department's representative indicates that neither a doctor's statement nor a BEP registration was received for Mr. _____ within the prescribed time limit. A Notice of Decision dated August 2, 2006 was issued to the claimant advising that _____ would be ineligible permanently for Food Stamps for his failure to register with BEP. **(DHS 2)** As a result of Mr. _____'s ineligibility the household's Food Stamp benefits were to be reduced from \$371 to \$269 per month.

- 4) WV Income Maintenance Manual Section 13.2 General Food Stamp Work Requirements and Exemption (**DHS3a**) indicates that all Food Stamp recipients are subject to a work requirement, **unless exempt**.
- 5) WV Income Maintenance Manual Section 13.5A Other Work Requirements (**DHS3b**) indicates that all mandatory individuals must register with BEP for employment within 30 days of the date of the original approval, **unless exempt**.
- 6) WV Income Maintenance Manual Section 13.6 Food Stamp Work Requirement Penalties (**DHS3c**) indicates that a Food Stamp penalty is imposed when an individual does not comply with a work requirement. Penalties for refusal to register with BEP are:
 - First Violation: The individual is removed from the AG for at least 3 months or until he meets an exemption whichever is less.
 - Second Violation: The individual is removed from the AG for at least an additional 3 months or until he meets an exemption whichever is less.
 - Third Violation: The individual is removed from the AG and is not eligible for Food Stamp benefits, either as a separate AG or as a member of another AG, unless he reports a change that makes him exempt.
- 7) Claimant's testimony indicates that her husband has been pending Workmen's Compensation and Social Security Disability benefits for at least a year and a half. Cannot afford to see a physician to obtain a current statement regarding husband's condition and all medical reports she has are from 2005. None of these reports give a definitive statement that claimant's husband cannot work.

VIII. CONCLUSIONS OF LAW:

- 1) WV Income Maintenance Manual Section 13.2, 13.5 and 13.5 indicate that the Food Stamp Program has a work requirement to be eligible for the program. One of the requirements is that mandatory individuals must register with BEP unless they can provide proof to exempt them. Failure to complete a required BEP registration will result in penalties involving removal of the mandatory individual from the AG for a period of 3 months up to and including permanently.
- 2) Claimant was advised of the need for her husband to register with BEP or provide a doctor's statement indicating his inability to work and failed to do so; therefore the proposed action of the department described in the August 2, 2006 Notice of Decision is appropriate.

IX. DECISION:

It is the decision of the State Hearing Officer to **UPHOLD** the Department's action to remove _____ from the Food Stamp AG and reduce the household's Food Stamp allotment accordingly.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 14th Day of December 2006.

**Melissa Hastings
State Hearing Officer**