



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

August 24, 2007

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Mr. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 21, 2007. 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 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. A recipient who fails to register by the due date established on the ES-6 or verification checklist is subject to a Food Stamp penalty. 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 them exempt. (West Virginia Income Maintenance Manual, Chapter 13.5 & 13.6)

The information submitted at your hearing reveals that you failed to register with BEP by the due date established on the verification request form.

It is the decision of the State Hearings Officer to **uphold** the proposal of the Agency to apply a three (3) month Food Stamp penalty. The penalty will begin effective October 1, 2007.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review  
Debra Parker, ESW, DHHR

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

\_\_\_\_\_,

**Claimant,**

**v.**

**Action Number: 07-BOR-1635**

**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 October 23, 2007 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 August 21, 2007 on a timely appeal, filed June 25, 2007.

It should be noted here that the Claimant's benefits have continued 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  
Debra Parker, ESW, DHHR

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 terminate the Claimant's Food Stamp benefits by imposing a Food Stamp penalty.

#### **V. APPLICABLE POLICY:**

WV Income Maintenance Manual §13.5 & 13.6  
7 CFR § 273 Code of Federal Regulations

#### **VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

- D-1 WVIMM 13.5
- D-2 Notice of Decision dated June 12, 2007
- D-3 Case Comments from 4/24/07 & 6/11/07
- D-4 Bureau of Employment Programs (BEP) registration verification form.
- D-5 Online (Internet) BEP registration verification through Job Seeker Search Results (WorkfoceWV.org)
- D-6 Online (Internet)BEP Activity for \_\_\_\_\_ (WorkforceWV.org)

#### **VII. FINDINGS OF FACT:**

- 1) On or about June 12, 2007, the Claimant was notified via a Notice of Decision (Exhibit D-2) that his Food Stamp benefits would stop after June 2007.
- 2) The Claimant was redetermined for Food Stamp eligibility on April 24, 2007 (Exhibit D-3) and the determination was made that he was not exempt from Food Stamp Employment and Training (FSE&T) requirements. Because the Claimant had not registered with the Job Service (Bureau of Employment Programs), hereinafter BEP in the last 12 months, the Claimant was advised that he was required to register with the BEP or he would be subject to a three (3) month Food Stamp Penalty.
- 3) The Claimant was provided a BEP registration verification form (Exhibit D-4) which states on the bottom – "Register with Job Service by 5/23/07. Failure to register by 5/23/07 will result in a 90 day Food Stamp Sanction (penalty) for [REDACTED]"
- 4) The Department presented evidence to indicate that an alert was received in its RAPIDS computer system indicating the Claimant had not registered with BEP. According to Exhibit D-3, the alert was received by the Department on June 11, 2007. The Department's representative documented that she checked BEP online registration verification (Exhibit D-5) which revealed the Claimant was not registered. As a result, a Food Stamp penalty was

applied and the Claimant was notified via the Notice of Decision (Exhibit D-2) of the Food Stamp penalty.

- 5) Exhibit D-6 (Online Internet verification) verifies that the Claimant did not register with BEP until June 15, 2007.
- 6) West Virginia Income Maintenance Manual, Chapter 13.5 states, in pertinent part, that 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. They 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 Food Stamp penalty and the Worker must send an adverse action notice.
- 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 and do not have good cause. 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.

**NOTE:** 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.

#### **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 participation and was required to register with BEP for employment within 30 days of the date of the original approval and every 12 months thereafter unless an exemption is met.
- 2) The Claimant was provided a BEP registration verification form and advised that it needed to be returned by May 23, 2007.
- 3) The evidence reveals that the Claimant failed to register with BEP prior to the May 23, 2007 deadline and a Food Stamp penalty was applied. Policy dictates that once a penalty is applied, the minimum penalty must be served unless an exemption is met. Although the Claimant registered with BEP on June 15, 2007, the proposed Food Stamp penalty must be served by the Claimant.

#### **IX. DECISION:**

The Department's proposal to apply a three (3) month Food Stamp penalty is **upheld**. The penalty will begin effective October 1, 2007.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision  
Form IG-BR-29

**ENTERED this 24<sup>th</sup> Day of October, 2007.**

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**Thomas E. Arnett  
State Hearing Officer**