



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

February 22, 2007

Dear Mr. ____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 8, 2007. Your hearing request was based on the Department of Health and Human Resources' decision to deny your application for Food Stamp benefits.

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: The third violation for non-compliance with the Food Stamp work requirements causes ineligibility for Food Stamps until a reported change meets an exemption.

The information, which was submitted at your hearing, revealed that you are currently affected by a third violation without an exemption.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny your application for Food Stamp benefits.

Sincerely,

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

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

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

____,

Claimant,

v.

Action Number: 07-BOR-510

**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 February 8, 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 February 8, 2007 on a timely appeal, filed December 26, 2006.

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
Donald Tolliver, DHHR, 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 Department was correct in their actions to deny your Food Stamp application.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Policy § 13.2 and 13.6

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 West Virginia Income Maintenance Manual, Chapter 13.6
- D-2 FS Work Requirement Sanction Requests
- D-3 Notification of Food Stamp denial dated December 27, 2006
- D-4 Request for hearing dated December 26, 2006

VII. FINDINGS OF FACT:

- 1) The claimant completed an application for Food Stamp benefits on December 22, 2006.
- 2) The computer system alerted the caseworker of an ongoing third sanction that was in effect for the claimant. The Department had imposed sanctions for non-compliance with the Food Stamp Employment and Training program in January 2003, June 2003 and March 2005.
- 3) The Department issued a denial letter for Food Stamps on December 27, 2006 to the claimant. This letter explained that the claimant was ineligible for failure to comply with Food Stamp Employment and Training.
- 4) The claimant submitted a hearing request regarding the denial.
- 5) The claimant offered testimony in objection to the individual sanctions that had been applied to him in the year 2003 and 2005 however; the issue at hand was regarding the actions of the Department in December 2006. His opportunity to have a hearing regarding the individual sanctions has expired.
- 6) The claimant was not working, attending school or training, nor is he in any other activity, which would meet an exemption to the Work Requirements of the Food Stamp program.

7) **West Virginia Income Maintenance Manual § 13.6**

Food Stamp Work Requirement Penalties:

A Food Stamp 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

A non-WV Works recipient who does not comply with the Food Stamp work requirements is subject to the following penalties for at least the minimum penalty period or until he reports a change, which makes him exempt from the work requirements.

Penalties for refusal to register with BEP, refusal to cooperate with FSE&T refusal of employment and refusal to provide information about employment status and job availability are:

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 for some reason other than UCI-related activities. When the client no longer meets an exemption, he is ineligible for Food Stamp benefits until he meets another exemption.

8) **West Virginia Income Maintenance Manual Chapter 13.2**

Exemptions from Food Stamp Work Requirements

- A person under age 16
- A person age 16 or 17 who is not the payee or primary person
- A person age 16 or 17 who is attending school or in employment training at least ½ time
- A person enrolled at least ½ time in any recognized school or training program
- A person age 60 or over
- A parent, or other member of the AG who has the responsibility for the care of a child under the age of six
- Individuals receiving UCI, as a result of registering with BEP
- 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, or receiving weekly earnings equal to the federal minimum wage multiplied by 30 hours.
- Individuals who receive WV Works, so long as they are subject to and comply with a WV WORKS work requirement.

VIII. CONCLUSIONS OF LAW:

- 1) Policy is clear in Chapter 13.6 that the penalty for a Third violation of the Food Stamp Work Requirements is ineligibility until the individual meets an exemption.
- 2) It is also clear that this claimant does not meet any of the exemptions listed in Chapter 13.2 of the Income Maintenance Manual.

IX. DECISION:

I rule to **uphold** the Department in its action to deny the claimant Food Stamp benefits due to a third sanction for non-compliance with the Employment and Training requirements.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 22nd Day of February 2007.

**Sharon K. Yoho
State Hearing Officer**