



**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**

March 13, 2007

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 22, 2007. Your hearing request was based on the Department of Health and Human Resources' decision to apply a Food Stamp penalty against you for quitting a full time job without good cause established.

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 you quit a full time job without establishing good cause.

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
Myers, DHHR

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

_____,

Claimants,

v.

Action Number: 07-BOR-701

**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 22, 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 22, 2007 on a timely appeal, filed January 22, 2007.

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

_____, co claimant

Department's witnesses:

Cynthia Myers, Family Support Supervisor

Judy Wolfe, Income Maintenance Worker

Anita Bosley, Family Support Specialist

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. and 1.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 Employer Verification of wage and hours dated December 27, 2006

D-2 West Virginia Income Maintenance Manual Policy § 13.2

D-3 Request to employer for information regarding reason for quit dated January 18, 2007

D-4 Case Comments January 8, 2007, January 18, 2007 and January 19, 2007

D-5 Notification of WV Works sanction dated January 23, 2007

D-6 Notification of reduction in Food Stamps dated January 23, 2007

VII. FINDINGS OF FACT:

- 1) The claimant was a member of a Food Stamp household on December 27, 2006 when he was hired at [REDACTED] Corporation. He was hired at a rate of pay of \$8.60 per hour for 40 hours per week.
- 2) On January 8, 2007, the caseworker received a phone call from the Personnel Department of [REDACTED]. The Personnel worker reported that both the claimant and co-claimant had quit their jobs after working two weeks. She reported that the claimant quit his job due to a disagreement with his supervisor and the co-claimant quit because they only had one vehicle. The Personnel worker told the caseworker that the claimant had been heard at work making comments about the job not being worth his losing all his benefits. She stated that he had claimed that he was not permitted to go to the restroom. He had worked for this supervisor for one hour and 15 minutes. His regular supervisor was not at work that day. The Personnel worker said that the supervisor had a totally different story and that they never stop anyone from going to the restroom.

- 3) The claimant and co-claimant came into the DHHR office on January 8, 2007 to report that they had both quit their jobs. The claimant reported that he had been asking for one hour to go to the restroom and his supervisor ignored him so he just left the line and went to the restroom without permission. His supervisor advised him that he could not do that anymore. He reports that he was then verbally reprimanded by the line leader's supervisor and sent to the Human Resource Office to try to work things out. He got with the co-claimant and they both went to the Office. When he discovered that the employer was not going to allow him to transfer to another department, he filled out a paper stating that he was quitting his job. The claimant advised the caseworker to contact [REDACTED] to verify that he had a good reason for quitting.
- 4) The caseworker sent a request to [REDACTED] on January 18, 2007 to have written documentation sent to the Department to verify the reasons for the claimant quitting his job. The Department never received this documentation and the claimant testified that he was not able to get this written documentation either.
- 5) The claimant testified that he needed to go to the restroom after being on the assembly line for 20 minutes. He says that he drinks many cups of coffee in the morning and that a previous hernia operation makes him unable to hold his urine for long periods. He then said that he usually has to urinate three times per day. He testified that after he waited an hour and 10 minutes without given permission to leave the line to go to the restroom, he left the line and went without permission. He testified that the line leader's manager took him off to the side and told him that he was getting tired of the conflicts regarding the bathroom issue. The claimant testified that this was the only time he had a problem with going to the restroom.
- 6) The claimant states that he does not remember what he wrote on his quit paper, but says that he quit because of disrespect and he did not like how they talked to him.
- 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.

NOTE: Those persons exempt from the work requirement at the time of the quit due to receipt of, or registration for, UCI benefits are exempt from the Food Stamp penalty.

C. GOOD CAUSE FOR VOLUNTARILY 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 was discriminated against by the employer based on age, race, sex, color, disability, religious beliefs, national origin or political beliefs.

- The work demands or conditions were unreasonable, such as, but not limited to, working without being paid on schedule.
- The enrollment by the individual at least half-time in any recognized school, training program or institution of higher learning, which requires the individual to leave employment.
- The acceptance by an AG member of employment or enrollment of at least half-time in any recognized school, training program or institution of higher learning in another area which requires the AG to move and, thereby requires the individual to leave employment.
- The employment does not meet the suitability requirements, Employment is considered unsuitable if any of the following conditions exist: Wage offered is less than the highest of the applicable federal minimum wage, the applicable state minimum wage, or Eight percent of the federal minimum wage, if neither the federal nor the State minimum wage is applicable.
- The employment in question is on a piece-rate basis and the average hourly yield the employee can reasonably expect is less than the applicable hourly wages specified above.
- The individual as a condition of employment, is required to join, resign from or refrain from joining, any legitimate labor organization.
- The work is at a site subject to a work stoppage as a result of a strike or lockout at the time of the offer, unless the strike has been enjoined under section 208 of the labor Management Relations Act. Or Section 10 of the Railway Labor Act.
- In addition, employment is considered suitable unless the AG member can demonstrate or the worker otherwise becomes aware that: The degree of risk to health and safety is unreasonable. 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. The employment offered is not in the client's major field of experience. This is applicable only within the first 30 days of becoming subject to the work requirements. The distance traveled to the employment from the client's residence is unreasonable, if daily commuting time exceeds two hours per day.
- If working hours or nature of the employment interferes with the client's religious observances, convictions or beliefs.

- The acceptance of a bona fide offer of employment of more than 30 hours per week, which, through no fault of the individual, results in employment of less than 30 hours per week.
 - The client left a job in connection with patterns of employment in which workers frequently move from one employer to another.
 - Resignations by persons under the age of 60, which are recognized by the employer as retirement.
 - The client left employment due to circumstances beyond his control, such as, but not limited to: illness, illness of another AG member requiring the presence of the client, a household emergency, the unavailability of transportation, or lack of adequate child care for a child who is at least age 6, but not yet age 12.
- 8) **WV Income Maintenance Manual Policy § 1.2, states:** The client's responsibility is to provide information about his circumstances so the Worker is able to make a correct decision about his eligibility.

VIII. CONCLUSIONS OF LAW:

- 1) Policy is clear in Chapter 1.2 that it is the client's responsibility to provide information about his circumstances so the worker is able to make a correct decision about his eligibility. The claimant failed to provide to the Department proof that he had good reason quitting his job.
- 2) His testimony regarding the restroom incident coincided with the reports from his employer. His stated reason for quitting is not considered by policy § 13.3 as a good cause for quitting. Disrespect and not liking how the employer talks to you, is not a good cause for quitting a full time job. While the claimant may have had, some issues that needed addressed with his employer the problems he reported do not constitute reason to voluntarily leave employment. His testimony regarding his not being able to hold his urine for long periods conflicts with his further testimony that he needs to go to the restroom three times per day and is therefore is not credible.
- 3) Policy § 13.3 provides that a three month sanction is to be applied for voluntary quitting a full time job without good cause.

IX. DECISION:

I find that the Department was correct in their actions to apply a voluntary quit sanction against the claimant. I rule to **uphold** the Department in its decision to reduce Food Stamp benefits due to the application of this sanction.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 13th Day of March 2007.

Sharon K. Yoho
State Hearing Officer