



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
2699 Park Avenue, Suite 100
Huntington, WV 25704

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

August 19, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 19, 2009. Your hearing request was based on the Department of Health and Human Resources' termination of your SNAP benefits due to sanction.

In arriving at a decision, the State Hearing 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 SNAP is based on current policy and regulations. Some of these regulations state that all SNAP recipients are subject to a work requirement, unless exempt (West Virginia Income Maintenance Manual, Chapter 13.2). A SNAP penalty is imposed against individuals failing to comply with work requirements without good cause, and the minimum penalty must be served unless the SNAP recipient meets an exemption (West Virginia Income Maintenance Manual, Chapter 13.6).

The information submitted at your hearing revealed that the Department imposed a SNAP sanction for failure to comply with work requirements. After you complied with these requirements, you met no exemption from the minimum SNAP penalty period.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to terminate your SNAP benefits due to sanction.

Sincerely,

Todd Thornton
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Lisa Tanner, Department Representative

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

-----,

Claimant,

v.

Action Number: 09-BOR-1129

**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 August 19, 2009 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 May 19, 2009 on a timely appeal, filed April 28, 2009.

II. PROGRAM PURPOSE:

The purpose of SNAP 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
Lisa Tanner, Department Representative
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*Observed only; did not offer testimony

Presiding at the Hearing was Todd Thornton, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department was correct to terminate the Claimant's SNAP benefits due to sanction.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 9.1; Chapter 13.2; Chapter 13.6; Chapter 25.1

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Notification letter dated July 16, 2008
- D-2 Notification letter dated January 13, 2009
- D-3 Case Comments from December 2008
- D-4 Case Comments from March and April 2009
- D-5 Notification letter dated March 4, 2009
- D-6 Food Stamp Employment & Training Notification Form
- D-7 West Virginia Income Maintenance Manual, Chapter 9.1
- D-8 West Virginia Income Maintenance Manual, Chapter 13.2
- D-9 West Virginia Income Maintenance Manual, Chapter 13.6

VII. FINDINGS OF FACT:

- 1) On July 14, 2008, the Claimant completed an application for SNAP, formerly known as the Food Stamp Program. On or about July 16, 2008, the Department notified the Claimant (Exhibit D-1) of approval for SNAP. This approval letter advised the Claimant that she was a mandatory participant in a SNAP work program, as follows, in pertinent part:

Work Program Referrals

The following individual has been referred to Work Programs:

MANDATORY

Food Stamps

Work Program Participant

A mandatory participant must have good cause for not participating in a work program. If he/she fails to participate without good cause, his/her benefits may be reduced or terminated.

- 2) The Department presented case comments (Exhibit D-3) from a December 2008 review of SNAP eligibility, and a notice of ongoing eligibility for SNAP issued to the Claimant on or about January 13, 2009. Testimony from the Department indicated that she was advised by both of her continuing requirement to comply with SNAP work requirements.

- 3) Case comments from March 4, 2009 (Exhibit D-4) were presented by the Department to show that a sanction was to be imposed against the Claimant based on information that she was not complying with SNAP work requirements. The Department issued a notice (Exhibit D-5) to the Claimant on or about March 4, 2009 advising her that SNAP benefits will stop due to this sanction. The notice stated that the sanction was to continue three months or until compliance, whichever is longer.
- 4) The Department presented a form (Exhibit D-6) documenting that the Claimant complied with SNAP work requirements as of April 7, 2009.
- 5) The West Virginia Income Maintenance Manual, Chapter 13.2, states, in pertinent part:

13.2 GENERAL SNAP WORK REQUIREMENTS AND EXEMPTIONS

All SNAP recipients are subject to a work requirement, unless exempt. There are 2 separate and distinct policies which define these work requirements and the exemptions from these requirements.

A. SNAP WORK REQUIREMENTS FOR NON-WV WORKS RECIPIENTS

The following work requirements apply to all SNAP recipients who:

- Do not receive and/or are disqualified from WV WORKS; or
- Do not receive WV WORKS, but do receive SNAP benefits in the same SNAP AG with WV WORKS recipients.

The work requirements in item A of this Section also apply to ABAWD's. See Section 9.1,A.

NOTE: Applications which qualify for Expedited Service may require special considerations in meeting work requirements. See Section 1.4,O,3.

NOTE: When an applicant is ineligible until he meets one of the following requirements, this period of ineligibility does not count as a penalty period.

1. Work Requirements

- Cooperation with SNAP E&T. Details are in Chapter 25. SNAP E&T requirements are met for applicants who agree to cooperate with SNAP E&T. Failure to agree results in ineligibility of the individual until he complies or reports a change which makes him exempt. Failure to cooperate after referral to SNAP E&T in RAPIDS, results in application of a penalty for failure to meet the work requirement. This is not a requirement for those who live in counties where SNAP E&T is not operational. If SNAP E&T is not operational in the client's county of residence, the client must register with BEP

- 6) The West Virginia Income Maintenance Manual, Chapter 25.1, states:

25.1 INTRODUCTION

The intent of the Food Stamp Employment and Training (FSE&T) Program is to ensure that Able-Bodied Adults without Dependents (ABAWD) Food Stamp recipients are involved in work-related activities which will eventually lead to paid employment and a decreased dependency on assistance programs. The emphasis of the program is to serve ABAWD who are not otherwise exempt. In the areas of operation, these individuals must participate or they become ineligible for Food Stamp benefits, if not otherwise exempt.

NOTE: See Section 9.1,A,2,m for ABAWD definitions and exemptions.

- 7) The West Virginia Income Maintenance Manual, Chapter 9.1.A.2.m.(4), provides that SNAP E&T is operational in the Claimant's county of residence, as follows:

(4) Issuance Limited Counties (ILC) and Non-Issuance Limited Counties (NILC)

The following are ILC counties and the only ones in which the 3-month limit applies.

Cabell	Kanawha	Marion
Harrison	Raleigh	Wood

All other counties are Non-Issuance Limited Counties (NILC) or are treated as such.

NOTE: When an NILC becomes an ILC, the first month of the client's 3-month limit is the month in which the county becomes an ILC.

- 8) The West Virginia Income Maintenance Manual, Chapter 13.6.A, explains the minimum penalty requirement, as follows, in pertinent part (emphasis added):

A. NON-WV WORKS RECIPIENT

A non-WV WORKS recipient who does not comply with the SNAP work requirements in Section 13.2 - 13.5 is subject to the following penalties.

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.

Penalties are applied sequentially, regardless of the requirement not met. In addition, penalties are applied consecutively and one penalty must end before another one is imposed.

- 9) The West Virginia Income Maintenance Manual, Chapter 13.2.A.2, provides a list of such exemptions, as follows, in pertinent part:

- A person under age 16. Those who reach age 16, and lose this exemption, become subject to the SNAP work requirements at the next redetermination, unless exempt for some other reason.

- A person age 16 or 17 who is not the SNAP payee or RAPIDS primary person. Persons who lose this exemption become subject to the SNAP work requirements at the next redetermination, unless exempt for some other reason.

EXAMPLE: An AG consists of two 17 year olds. One is designated as the RAPIDS primary person and SNAP payee and is, therefore, subject to the work requirements, unless another exemption is met. The other AG member is exempt from the work requirements.

- A person age 16 or 17 who is attending school or enrolled in an employment training program on at least a half-time basis. Persons who lose this exemption become subject to the SNAP work requirements at the next redetermination, unless exempt for some other reason.

- A person enrolled at least half-time in any recognized school, recognized training program, or institution of higher education. If enrolled in an institution of higher education, the student must meet one of the exceptions to the restriction on student participation listed in Section 9.1. This exemption continues through normal periods of vacation, unless the person does not intend to register for the next term, excluding summer terms. Any person losing this exemption becomes subject to the SNAP work requirements at the next redetermination, unless exempt for some other reason.

- 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 6, or of an incapacitated and/or disabled individual. The person receiving the care is not required to reside with the AG or be a member of the SNAP AG. Unborn children are not considered children under the age of 6.

Separate families included in the same AG may have one person from each family exempted. Separate families, not in the same AG, but living together, may also have one person from each family exempted.

EXAMPLE: Two sisters live together and are in the same AG. They each have two children under age 6. Both women may be exempt for caring for a child under age 6.

EXAMPLE: A man and woman apply for SNAP benefits. They have one child, age 5. The man receives RSDI based on his disability and is, therefore, exempt from the SNAP work requirements. He is, however, able to care for the child, so the mother is not exempt from the requirements.

NOTE: An individual needed to care for an incapacitated person becomes subject to the SNAP work requirements within 10 calendar days after reporting a change, such as when the disabled person recovers or leaves the home. When an AG member is exempt because of the age of a child, and the child has his 6th birthday during the certification period, the individual becomes subject to the SNAP work requirements at the next regularly scheduled redetermination, unless exempt for some other reason.

- Individuals receiving UCI, as a result of registering with BEP. This includes persons receiving benefits under the Trade Readjustment Act (TRA).

When a client reports the loss of UCI income, the Worker must evaluate the circumstances to determine if a penalty must be applied. A penalty is applied when the individual is exempt from SNAP work requirement due solely to the fact that the client was registered with BEP, unless another exemption is met. Good cause for failure to comply with UCI requirements include all situations described in Section 13.3,C for voluntarily quit.

If an individual's UCI benefits are suspended, he becomes subject to the SNAP work requirements 10 calendar days after the change is reported, unless a SNAP penalty is applied, or unless exempt for some other reason.

- Individuals who are physically or mentally unfit to engage in full-time employment. See Section 12.15. Should the client become able to work, he becomes subject to the SNAP work requirements at the next redetermination, unless exempt for some other reason.

- Regular participants in a drug addiction or alcoholic treatment and rehabilitation program, either on a resident or non-resident basis. Any person leaving the treatment program becomes subject to the SNAP work requirements 10 calendar days after the change is reported, unless exempt for some other reason.

- 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. When the client is employed or self-employed for at least 30 hours per week, no consideration is given to the amount earned.

An employed person who is laid off, fired, goes on strike, quits or changes to employment of less than 30 hours per week, or ceases earning wages equal to the federal minimum wage multiplied by 30, becomes subject to the SNAP work requirements 10 calendar days after the change is reported, unless a SNAP penalty is applied or the client is exempt for some other reason.

- Individuals who receive WV WORKS and do not meet any of the other SNAP exemptions listed above, so long as they are subject to and complying with a WV WORKS work requirement. These individuals would be required to meet the SNAP work requirements if they did not receive WV WORKS. When an individual who is exempt only for this reason becomes exempt from WV WORKS work requirements, he is also considered exempt from SNAP work requirements. See Section 13.11 for the effect of a WV WORKS sanction on SNAP benefits.

NOTE: When a WV WORKS recipient who is exempt for this reason, loses eligibility for WV WORKS, he must meet the appropriate SNAP work requirements no later than the 10th of the following month, i.e., the first month he does not receive WV WORKS.

- 10) Testimony from the Claimant indicated that she understood the work requirements and that she was looking for work. She testified that her lack of transportation was a hindrance to compliance with the SNAP work requirements.

VIII. CONCLUSION OF LAW:

- 1) In the Claimant's county of residence, SNAP policy requires participation in work programs. When the Claimant failed to comply with this requirement, a sanction was imposed. The Claimant subsequently complied, but policy clearly shows that a minimum penalty must be served. No exemptions to this requirement were reported by the Claimant. The Department was correct to impose a sanction against the Claimant's case, terminating SNAP benefits.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Department to terminate the Claimant's SNAP benefits due to sanction.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this _____ Day of August, 2009.

Todd Thornton
State Hearing Officer