



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
1027 N. Randolph Ave.  
Elkins, WV 26241

Joe Manchin III  
Governor

Patsy A. Hardy, FACHE, MSN, MBA  
Cabinet Secretary

December 17, 2009

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 15, 2009. Your hearing request was based on the Department of Health and Human Resources' action to deny your Supplemental Nutrition Assistance Program (SNAP) application based on the imposition of a voluntary quit penalty.

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 the SNAP is based on current policy and regulations. Some of these regulations state as follows: Good cause for voluntarily quitting a job can be established when the degree of risk to health and safety is unreasonable. (West Virginia Income Maintenance Manual Section 13.3)

Based on information submitted at your hearing, you have established good cause for voluntarily terminating your employment with [REDACTED]

It is the decision of the State Hearing Officer to **reverse** the Department's denial of your SNAP application.

Sincerely,

Pamela L. Hinzman  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
James Cox, ESS, DHHR

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

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**Claimant,**

**v.**

**Action Number: 09-BOR-2223**

**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 December 17, 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 via videoconference on December 15, 2009 on a timely appeal filed November 13, 2009.

**II. PROGRAM PURPOSE:**

The Supplemental Nutrition Assistance Program (SNAP), formerly 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 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

James Cox, Economic Service Supervisor, DHHR

Presiding at the hearing was Pamela L. Hinzman, State Hearing Officer and a member of the State Board of Review.

### **IV. QUESTION TO BE DECIDED:**

The question to be decided is whether the Department acted correctly in denying the Claimant's SNAP benefits.

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

West Virginia Income Maintenance Manual Chapters 13.2, A, 1 and 2, and 13.3, A and C

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

#### **Department's Exhibits:**

- D-1 Notice of Decision dated October 6, 2009
- D-2 West Virginia Income Maintenance Manual Chapter 13.3
- D-3 Case comments dated October 1, 2009
- D-4 Statement from [REDACTED]

#### **Claimant's Exhibits:**

- C-1 Decision of Chief Administrative Law Judge [REDACTED] Board of Review, WORKFORCE West Virginia, dated December 3, 2009

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

- 1) The Claimant applied for Supplemental Nutrition Assistance Program (SNAP) benefits on October 1, 2009. At that time, the Claimant reported that he had quit his job at [REDACTED] on August 18, 2009, as noted in case comments dated October 1, 2009 (D-3). The Claimant stated that he terminated his employment because he had been physically threatened by a co-worker. At the time of application, the Claimant indicated he had filed an Unemployment Compensation claim.
- 2) The Department received a facsimile transmission from [REDACTED] on December 15, 2009 (D-4), indicating that company officials investigated the Claimant's allegations and determined that the Claimant had been aggressive to his co-worker. The

company's statement alleges that the Claimant quit his job without notice and did not allow time for an adequate investigation and course of action. The statement indicates that continuing work was available for the Claimant.

- 3) Based on the employer's statement, the Department sent the Claimant a Notice of Decision on October 6, 2009 (D-1) informing him that his application was denied because he voluntarily terminated his employment without good cause. James Cox, Economic Service Supervisor, testified that the worker imposed a voluntary quit penalty for the period of October 2009 through December 2009, or until compliance.
- 4) The Claimant testified that he left his employment because he had been physically threatened by a co-worker and was not satisfied by management's handling of the situation. The Claimant contended that the co-worker in question had been sentenced to home confinement for previous violent behavior, but was permitted to work and wore an ankle bracelet. He indicated that he had approached the co-worker because he did not believe the employee was doing his job, and the co-worker threatened him with physical violence. The Claimant maintained that his co-worker also made death threats.

The Claimant testified that the State's Unemployment Compensation Division substantiated good cause for the voluntary quit and awarded him unemployment benefits, which he began receiving soon after he completed his SNAP application. Case comments (D-3) indicate that the Claimant informed the DHHR worker he had filed a claim for Unemployment Compensation at the time of application. The Claimant testified that his former employer appealed the decision, but [REDACTED] an Administrative Law Judge with WORKFORCE West Virginia (Unemployment Compensation Division), affirmed the good cause finding in a decision dated December 3, 2009 (G-1) after the company appealed a lower deputy's ruling.

- 5) West Virginia Income Maintenance Manual Section 13.2, A, 1 lists work requirements for the S. This section states, in pertinent part:

- Voluntary Quit, including Voluntary Reduction in hours. Details are in Section 13.3. Not having voluntarily quit or reduced hours of employment is an eligibility requirement for non-exempt applicants, as well as a work requirement for non-exempt recipients. The applicant who takes either of these actions without good cause, is ineligible the month of application and 2 calendar months following the month of application or until he reports a change which makes him exempt from the Food Stamp work requirement, whichever is earlier. This 3-month-ineligibility period is not counted as one of the applicant's Food Stamp penalties.

6) West Virginia Income Maintenance Manual Chapter 13.3 (D-2) states, in pertinent part:

#### A. ACTIONS WHICH ARE VOLUNTARY QUILTS

An applicant who voluntarily quit employment is ineligible for 3 months; a penalty is applied to an active recipient. See Section 13.2, A.1 and 13.6.

A voluntary quit has occurred when all of the following conditions exist:

- The individual left full-time employment of at least 30 hours per week, other than self-employment, of his own volition, or the individual voluntarily reduced his work hours to below 30 hours/week.

#### 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 any 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:

- The wage offered is less than the highest of:
  - o The applicable federal minimum wage,
  - o The applicable State minimum wage, or
  - o Eighty (80) 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 (Taft-Hartley 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, considering the expected wage and the time and cost of commuting. Employment is not considered suitable if daily commuting time exceeds two hours per day, not including the transporting of a child to and from a child care facility. Nor is employment considered suitable if the distance to the place of employment prohibits walking and neither public nor private transportation is available to transport the individual to the job site.

- 7) West Virginia Income Maintenance Manual Section 13.2, A, 2 states that individuals receiving Unemployment Compensation Income are exempt from SNAP work requirements and are not subject to SNAP penalties for failure to comply.

## **VIII. CONCLUSIONS OF LAW:**

- 1) Policy states that an individual can establish good cause for voluntarily quitting employment when the degree of risk to health and safety is unreasonable.
- 2) The Claimant testified that his life was threatened by a co-worker at [REDACTED] and he did not believe company officials took appropriate measures to ensure his safety. The Claimant is receiving Unemployment Compensation, as he was determined to have good cause for voluntarily terminating the employment. While company representatives contended that the Claimant was at fault in the incident, the decision to grant good cause was upheld by an Administrative Law Judge upon appeal.

- 3) As the Claimant has established good cause for voluntarily quitting his employment, the Department's decision to deny his SNAP application cannot be affirmed.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **reverse** the action of the Department to deny the Claimant's SNAP application. SNAP benefits should be issued retroactively to the application date of October 1, 2009.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 17th Day of December, 2009.**

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**Pamela L. Hinzman**  
**State Hearing Officer**