



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

May 14, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 5, 2009. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your benefits through the Supplemental Nutrition Assistance Program (SNAP) based on the imposition of a second sanction/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 SNAP benefits is based on current policy and regulations. Some of these regulations state that all SNAP recipients are subject to a work requirement, unless exempt. A SNAP penalty is imposed when individuals do not comply with work requirements. For a second violation, the individual is removed from the AG (assistance group) for at least 6 months or until he meets an exemption, whichever is less. (West Virginia Income Maintenance Manual Sections 13.2 & 13.6)

Information submitted at your hearing reveals that you failed to comply with SNAP E&T work requirements.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department in applying a second penalty to your SNAP benefits.

Sincerely,

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

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

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

-----,

Claimant,

v.

Action Number: 09-BOR-632

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 May 14, 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 originally scheduled to convene on March 6, 2009 (Fairmont DHHR closed) and again on March 26, 2009 but was continued at the Claimant's request and convened on May 5, 2009, 2009 on a timely appeal filed February 2, 2009.

It should be noted that benefits have continued pending a hearing decision.

II. PROGRAM PURPOSE:

The Supplemental Nutrition Assistance Program (SNAP) 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 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
-----, ESW, DHHR
-----, SNAP Employment and Training (E&T) Worker

Presiding at the hearing was Thomas E. 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 or not the Agency was correct in its proposal to impose a second-level SNAP penalty in the Claimant's case.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual § 13.2 & 13.6
7 CFR § 273 Code of Federal Regulations

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

Exhibit-1	Hearing Summary
Exhibit-2	Notice of Decision (SNAP Closure Letter) dated 1/16/09
Exhibit-3	WVIMM, Chapters 13.2 & 13.6
Exhibit-4	Case Comments for period 12/30/08 – 2/4/09
Exhibit-5	Screen print of verified paystubs and loss of employment
Exhibit-6	FSET (now SNAP E&T) Contract Staff Comments for period 12/23/08 – 2/2/09
Exhibit-7	SNAP E&T Self Sufficiency Plan for period 11/6/08 – 3/5/09
Exhibit-8	DFA-ABAWD-1 (IMPORTANT FOOD STAMP INFORMATION FOR ABLE-BODIED ADULTS WITHOUT DEPENDENTS)

VII. FINDINGS OF FACT:

- 1) On or about January 16, 2009, the Claimant was notified via a Notice of Decision (Exhibit-2) that his Supplemental Nutrition Assistance Program, hereinafter SNAP, benefits were terminated effective February 2009 due to failure to comply with SNAP Employment & Training (SNAP E&T) requirements.

- 2) The Department submitted Exhibit-7, a Self-Sufficiency Plan completed by the SNAP E&T Worker with the Claimant for the period November 6, 2008 through March 5, 2009, which states:

Continue to work for Star Furniture. First time sheet due 12-5-08 & each month after on the 5th of the month. Update PRP on 3-5-08. Notify SNAP E&T of any & all changes & keep all appointments.
- 3) On December 23, 2008 the Claimant met with his SNAP E&T Worker and reported that he lost his job with [REDACTED] Furniture. The SNAP E&T worker testified that the Claimant was advised he would need to provide his last pay stub for December 2008 and that he needed to return two employer verification forms as well as his monthly time sheet for hours worked in December by January 5, 2009. The SNAP E&T Worker purported that he did not see the Claimant again until February 2, 2009. While there were other verifications requested by SNAP E&T, the SNAP E&T Worker reported that the penalty was put in place because the Claimant did not provide a time sheet for hours worked in December 2008 by January 5, 2009. Exhibit-6 corroborates the testimony of the SNAP E&T Worker.
- 4) The Department presented evidence to indicate the Claimant underwent an eligibility review for SNAP benefits on December 30, 2008, and upon verification of his last pay from Star Furniture, the Claimant was approved for SNAP benefits. Exhibit-4 further confirms the Claimant was certified for SNAP benefits until the Department received a request from the SNAP E&T Worker to place the Claimant in a sanction on January 15, 2009 (See Exhibit-3).
- 5) The Claimant testified that he must have gotten confused. It was around Christmas time and there was a lot going on. He contends that this was an honest mistake as he did verify his loss of employment with his Department Worker. He did not try to be dishonest or intentionally mislead anyone and feels that he should not be punished. The Claimant, however, did not dispute whether or not he provided verification of hours worked in December 2008 to his SNAP E&T Worker by January 5, 2009.
- 6) West Virginia Income Maintenance Manual Chapter 13.2 (General Snap Work Requirements and Exemptions). 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. This section of policy provides reasons for which an individual can be found exempt from participation (employment, disability, etc. . .) Failure to cooperate with SNAP E&T results in the application of a penalty for failure to meet the work requirement.
- 7) West Virginia Income Maintenance Manual, Chapter 13.6, states in part: A SNAP penalty is imposed when individuals do not comply with work requirements. 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. Second violation: The individual is removed from the AG for at least 6 months or until he meets an exemption, whichever is less. Third and subsequent violations result in the individual being removed from the AG for at least an additional 12 months or until he meets an exemption, whichever is less. If after the 12 months, the individual has not complied or met an exemption, the penalty continues until the failure or refusal ceases or until the individual reports a change that makes him exempt according to Section 13.2.A.2.

VIII. CONCLUSIONS OF LAW:

- 1) The regulations that govern the SNAP Program direct that recipients who are not otherwise exempt (employed, disabled, etc. . .), must meet SNAP E&T work requirements. The determination has been made that the Claimant is not exempt from SNAP E&T.
- 2) As a condition of eligibility, the Claimant agreed to a Self-Sufficiency Plan wherein he was to provide verification of employment hours to his SNAP E&T Worker by the 5th of each month. While there were multiple issues pending with SNAP E&T (verification of last pay with Star Furniture and two employer forms), the undisputed fact remains that the Claimant failed to verify employment hours for the month of December 2008 by January 5, 2009.
- 3) Because the Claimant failed to cooperate with SNAP E&T, the Department was correct to impose a SNAP sanction/penalty for non-compliance with SNAP work requirements.

IX. DECISION:

Based on the evidence presented during the hearing, and the applicable policy and regulations, the Department's action to apply a Food Stamp penalty is **upheld**.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 14th Day of May, 2009.

Thomas E. Arnett
State Hearing Officer