



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Joe Manchin III
Governor

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

October 19, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 8, 2010. Your hearing request was based on the Department of Health and Human Resources' decision to impose a Supplemental Nutrition Assistance Program (SNAP) penalty against you for failing to register with the Bureau of Employment Programs (BEP).

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 SNAP is based on current policy and regulations. These regulations provide that an individual who refuses or fails to register with BEP is subject to a penalty for at least the minimum penalty period or until he reports a change which makes him exempt from the work requirements (WV Income Maintenance Manual § 13.6 A).

The information submitted at your hearing revealed that you failed to register with BEP within the time frames as dictated by policy.

It is the decision of the State Hearings Officer to **Uphold** the action of the Department to impose a SNAP penalty against you for failure to register with the Bureau of Employment Programs.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

cc: Chairman, Board of Review
Dwayne Woolwine, Economic Service Worker

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

-----,

Claimant,

v.

Action Number: 10-BOR-1718

**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 September 8, 2010 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.

II. PROGRAM PURPOSE:

The Program entitled Supplemental Nutrition Assistance Program (SNAP) is administered by the West Virginia Department of Health & Human Resources.

The purpose of the Supplemental Nutrition Assistance Program (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 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
Dwayne Woolwine, Economic Service Worker

Presiding at the Hearing was Kristi Logan , State Hearing Officer and a member of the Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department's decision impose a penalty against Claimant's SNAP benefits was correct.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 13.2 A, 13.5 A and 13.6 A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Department's Summary
- D-2 Referral to Bureau of Employment Programs dated June 10, 2010
- D-3 Notification Letter dated July 13, 2010
- D-4 Verification of Bureau of Employment Programs Registration dated August 2, 2010
- D-5 Case Comments (CMCC) from RAPIDS Computer System
- D-6 WV Income Maintenance Manual § 13.2, 13.5 and 13.6

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) Claimant was a recipient of Supplemental Nutrition Assistance Program (SNAP) and was referred to register with the Bureau of Employment Programs (BEP). The Department issued notification of this requirement on June 10, 2010 which read in pertinent part (D-2):

All SNAP recipients for whom registration for work with the BEP is required, must complete this mandatory registration within 30 days of the date of their SNAP application is approved and every 12 months after that.

This requirement affects individuals in this case. Our records show that the following individuals need to register with BEP by the dates listed: --
--- 7/9/10

- 2) A SNAP penalty was applied to Claimant on July 12, 2010 when she had failed to register with BEP. On July 23, 2010, Claimant spoke with her caseworker James Honaker and was advised that if Claimant registered with BEP prior to August 1, 2010, the SNAP penalty would be lifted (D-1 and D-5).

- 3) Dwayne Woolwine, Economic Service Worker, testified that Claimant registered with BEP on August 2, 2010 and provided verification to the Department on August 5, 2010 (D-4 and D-5). However, Mr. Woolwine stated that because the penalty was in effect as of the first of August, the penalty would remain in place until October 2010.
- 4) Claimant testified that she spoke with her caseworker when she received the SNAP termination letter. Claimant stated she was told by Mr. Honaker that as long as she registered with BEP before her next SNAP issuance, there would be no penalty applied. Claimant stated she receives her SNAP issuance on the 5th of every month and thought that by registering with BEP on August 2, 2010, her benefits would continue.
- 5) WV Income Maintenance Manual § 13.2 A(2) states:

Exemptions from Work Requirements

- A person under age 16.
 - A person age 16 or 17 who is not the SNAP payee or RAPIDS primary person
 - A person age 16 or 17 who is attending school or enrolled in an employment training program on at least a half-time basis.
 - A person enrolled at least half-time in any recognized school, recognized training program, or institution of higher education.
 - 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.
 - 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, either on a resident or non-resident basis.
 - 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 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.
- 6) WV Income Maintenance Manual § 13.5 A(1) states:

All mandatory individuals must register for employment with WORKFORCE WV/BEP, referred to in this section as BEP, within 30 days of the date of the original approval, unless exempt according to Section 13.2, or referred to SNAP E&T [employment and training]. Recipients must register every 12 months thereafter, regardless of the length of time that BEP considers the registration valid. Actions which constitute a registration are defined by BEP.

Once the client registers with BEP for SNAP purposes, he cannot be required to register more often than every 12 months, even when the benefit is opened and closed within the 12-month period.

A recipient who fails to register by the due date established on the DFA-6 or verification checklist is subject to a SNAP penalty and the Worker must send an adverse action notice. If the Worker discovers or the client notifies the Worker that he registered anytime before the end of the month in which the adverse notice expires, the penalty is not imposed and any lost benefits are restored.

7) WV Income Maintenance Manual § 13.6 A(2) states:

A non-WV WORKS recipient who refuses or fails to register with BEP, cooperate with FSE&T, refuses employment or refuses to provide information about employment status and job availability 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.

- First violation: The individual is removed from the AG [assistance group] for at least 3 months or until he meets an exemption, whichever is less. If after 3 months, the individual has not complied or met an exemption, the penalty continues until the failure or refusal stops, or until the individual reports a change that makes him exempt according to Section 13.2,A,2 for some reason other than UCI-related activities.
- Second violation: The individual is removed from the AG for at least an additional 6 months or until he meets an exemption, whichever is less. If after the 6 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 for some reason other than UCI-related activities.
- Third and subsequent violations: The individual is 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 for some reason other than UCI-related activities.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that all individuals mandatory to register with the Bureau of Employment Programs must do so within 30 days of the referral. If an individual fails to

register within 30 days of the referral, but registers before the end of the month the adverse action expires, no penalty is imposed.

- 2) Claimant was referred to register with the Bureau of Employment Programs on June 10, 2010. Claimant had until July 31, 2010 to register without the imposition of a SNAP penalty. Claimant did not register until August 2, 2010, after the penalty was already in place. Regardless of what may or may not have transpired between Claimant and her caseworker, policy clearly states that a SNAP penalty must be imposed on any individual mandatory for work registration who fails to register with the Bureau of Employment Programs by the due date.
- 3) Claimant's SNAP benefits were correctly terminated due to the imposition of a SNAP penalty for failure to register with the Bureau of Employment Programs.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to impose a SNAP penalty against Claimant.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 19th day of October 2010.

**Kristi Logan
State Hearing Officer
Member, Board of Review**