



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

October 28, 2010

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 27, 2010. Your hearing request was based on the Department of Health and Human Resources' action to terminate your Supplemental Nutrition Assistance Program (SNAP) benefits based on the imposition of a work 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 the SNAP, formerly Food Stamp Program, is based on current policy and regulations. Some of these regulations state as follows: A penalty is imposed when a non-exempt SNAP recipient fails to comply with a work requirement and does not have good cause. The minimum penalty must be served unless the client meets an exemption. For a first violation, the individual is removed from the Assistance Group for at least three months or until he meets an exemption, whichever is less. (West Virginia Income Maintenance Manual Section 13.6).

Information submitted at your hearing reveals that you failed to register with the Bureau of Employment Programs in a timely manner and the Department correctly imposed a penalty on your SNAP case.

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

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review  
Stephanie Hurst, ESS, DHHR

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

-----,

**Claimant,**

**v.**

**Action Number: 10-BOR-2012**

**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 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 October 27, 2010 on a timely appeal filed October 4, 2010. The hearing was originally scheduled for October 26, 2010, but was rescheduled at the request of the Department.

It should be noted that benefits have not continued pending a hearing decision.

**II. PROGRAM PURPOSE:**

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  
Stephanie Hurst, 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 took the correct action in terminating the Claimant's SNAP benefits based on the imposition of a work requirement penalty.

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

West Virginia Income Maintenance Manual Sections 13.2, 13.5 and 13.6

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

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

- D-1 Request for verification of BEP registration dated August 6, 2010
- D-2 Notice of Decision dated September 8, 2010
- D-3 West Virginia Income Maintenance Manual Section 13.2
- D-4 West Virginia Income Maintenance Manual Sections 13.5 and 13.6
- D-5 WorkForce West Virginia contact activity log
- D-6 WorkForce West Virginia registration

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

- C-1 Verification of medical examination for Social Security disability
- C-2 Fire Report regarding blaze at Claimant's residence on October 18, 2010

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

- 1) The Claimant was a recipient of Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp, benefits.
- 2) On August 6, 2010, the Department sent the Claimant a notice (D-1) informing him that he must register with the Bureau of Employment Programs (BEP) by September 4, 2010 as he is a mandatory work registrant.
- 3) DHHR Economic Service Supervisor Stephanie Hurst testified that the Claimant failed to register with BEP and a minimum three-month penalty was imposed on his SNAP case effective October 2010. The Claimant was informed of the penalty and termination of his SNAP benefits in a Notice of Decision dated September 8, 2010 (D-2).
- 4) The Supervisor testified that a WorkForce West Virginia activity log (D-5) indicates that the Claimant made local office contact with BEP on October 4, 2010. The Claimant provided verification of his BEP registration (D-6) to the Department on October 4, 2010, however the SNAP penalty had already been imposed.
- 5) The Claimant testified that he did not receive the notice requesting that he provide verification of BEP registration. He stated that he and his son have the same first name and their mail is often placed in the incorrect mailbox. The Claimant, who has diabetes,

indicated he has applied for Social Security Disability and underwent a medical examination as part of his application process (G-1). He also stated that his residence partially burned in a fire on October 18, 2010 (G-2) and he is in a bad situation. The Claimant testified that his younger son resides with him 50 percent of the time, however, the child's mother receives SNAP benefits for him in a separate case.

6) West Virginia Income Maintenance Manual Section 13.5, A (D-4) states that:

All mandatory individuals must register with BEP for employment within 30 days of the date of the original approval, unless exempt according to Section 13.2, or referred to FSE&T. 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...

A recipient who fails to register by the due date established on the ES-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 must not be imposed and any lost benefits will be restored.

7) West Virginia Income Maintenance Manual Section 13.6 (D-4) states:

A SNAP penalty is imposed when the individuals listed below do not comply with a work requirement and do not have good cause...

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...

A non-WV WORKS recipient who refused 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 work requirements...

- First violation: The individual is removed from the AG 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.

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

- 1) Policy reveals that all non-WV WORKS recipients who are mandatory work registrants must register with BEP to maintain SNAP eligibility once every 12 months. If a mandatory work registrant fails to register with BEP, he is removed from the Assistance Group for three months or until he reports a change that makes him exempt. The minimum penalty must be served unless the client reports an exemption.
- 2) While the Claimant maintains he did not receive notification from the Department requesting that he complete BEP registration, the Department provided verification of the letter sent to him on August 6, 2010 requesting the documentation. The Claimant's BEP registration was due on September 4, 2010, however he did not provide it to the Department until October 4, 2010 following imposition of the penalty.
- 3) Based on documentation and testimony offered during the hearing, the Department acted correctly in imposing a penalty to the Claimant's SNAP benefits.

#### **IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the action of the Department in terminating the Claimant's SNAP benefits based on the imposition of a work penalty.

#### **X. RIGHT OF APPEAL:**

See Attachment

#### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 28th Day of October 28, 2010.**

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**Pamela L. Hinzman  
State Hearing Officer**