



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 Hardy, FACHE, MSN, MBA
Cabinet Secretary

February 19, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 18, 2010. Your hearing request was based on the Department of Health and Human Resources' action to reduce 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 SNAP 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 3 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 decrease your SNAP benefits.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Joseph Johnson, ESS, DHHR

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

-----,

Claimant,

v.

Action Number: 09-BOR-2464

**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 February 19, 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. This fair hearing was convened on February 18, 2010 on a timely appeal filed December 16, 2009 and received by the Hearing Officer on January 6, 2010. The hearing was originally scheduled for February 4, 2010, but was rescheduled at the request of the Claimant.

Benefits have not been 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 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

Darlene Smith, Economic Service Worker, DHHR

Joseph Johnson, Economic Service Supervisor, DHHR

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

It should be noted that the hearing was conducted telephonically.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Department took the correct action in decreasing 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 Notice of Decision/verification request dated October 15, 2009

D-2 Electronic Mail Transmissions between Joseph Johnson and Darlene Smith

D-3 Worker's timeline of events

D-4 Notice of Decision dated November 17, 2009

VII. FINDINGS OF FACT:

- 1) The Department sent the Claimant a Notice of Decision (D-1) on October 15, 2009 informing her that she is a mandatory work registrant for the Supplemental Nutrition Assistance Program (SNAP) and must register with the Bureau of Employment Programs (BEP) by November 13, 2009.
- 2) The Claimant failed to provide verification of her work registration and was sent a Notice of Decision on November 17, 2009 (D-4) informing her that her SNAP benefits would be reduced from \$221 to \$54 effective December 1, 2009. The letter informs the Claimant that she was placed in a SNAP work requirement penalty for three months or until compliance, whichever is longer.
- 3) The Claimant, who has a Post Office box, testified that she had requested her mail be "held" by the U.S. Postal Service for the period of October 5, 2009 through November 10, 2009 due to her illness. She stated that she did not receive the October 15, 2009 notice requesting the BEP registration. The Claimant testified that she spoke with her

postmaster about the letter and he indicated that the notice could have been placed in another customer's box by mistake and that he would inform her if any box holders returned her mail to him. The postmaster later informed the Claimant that no mail had been returned.

The Economic Service Worker testified that the October 15, 2009 notice was not returned to DHHR and that the Claimant contacted her on December 7, 2009 to inquire about the reduction in SNAP benefits. The Economic Service Supervisor indicated that the sanction would not have been imposed had the Claimant registered by November 30, 2009. This information is included in the October 15, 2009 notice. The Claimant confirmed that she received the November 17, 2009 Notice of Decision informing her of the SNAP decrease. She registered with the BEP on December 15, 2009.

The Claimant contended that she should not be penalized because she did not receive the October 15, 2009 notice.

- 4) West Virginia Income Maintenance Manual Section 13.2 states, in pertinent part:

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 [*sic*]. See Section 9.1, A.

1. Work Requirements

- Registration with BEP. Details are in Section 13.5, A. Failure of an individual to register within the time limits found in Section 13.5, and each 12 months results in application of a penalty for not meeting the work requirement. This is not a requirement for those who are referred to SNAP E&T.

- 5) West Virginia Income Maintenance Manual Section 13.5, A states that:

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. 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.

- 6) West Virginia Income Maintenance Manual Section 13.6, A states, in pertinent part:

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 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 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-West Virginia Works recipients who are mandatory work registrants for SNAP purposes must register with the BEP every 12 months. If the SNAP recipient fails to verify registration, he is removed from the SNAP Assistance Group and must serve a penalty period. The penalty period for a first violation is a minimum of three months.

- 2) The Department sent the Claimant a notice on October 15, 2009 which states that she is a mandatory work registrant and, as such, must register with BEP by November 13, 2009. The Claimant contended that she did not receive the October 15, 2009 notice, however, there is no evidence to indicate that the letter was undelivered. The Claimant received the November 17, 2009 Notice of Decision informing her of the SNAP decrease, but did not contact DHHR about the matter until December 7, 2009.
- 3) Based on documentation and testimony offered during the hearing, the Department acted correctly in imposing a penalty for failure to verify BEP registration.

IX. DECISION:

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

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 19th Day of February, 2009.

Pamela L. Hinzman
State Hearing Officer