



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
4190 Washington Street, West  
Charleston, WV 25313

Joe Manchin III  
Governor

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

March 24, 2010

-----  
-----  
-----

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 16, 2010. Your hearing request was based on the Department of Health and Human Resources' proposal to reduce your Supplemental Nutrition Assistance Program (SNAP) due to the imposition of a Food Stamp Employment and Training (FSET) 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 and benefit levels for SNAP are based on current policy and regulations. Some of these regulations state that 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 a first offense sanction for at least three (3) months or until he meets an exemption, whichever is less. (WVDHHR Income Maintenance Manual Section 13.6.A.2)

The information submitted at your hearing reveals that you failed to register with Bureau of Employment Programs (BEP) within the timeframe allowed.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in reducing your SNAP based on the imposition of a first offense BEP sanction against you.

Sincerely,

Cheryl Henson, State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Tera Pendleton, [REDACTED] DHHR

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

-----,

**Claimant,**

**v.**

**Action Number: 10-BOR-728**

**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 March 16, 2010 on a timely appeal filed January 14, 2010.

It should be noted that the Claimant's SNAP have not been continued pending the outcome of this hearing.

**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

Tera Pendleton, Income Maintenance Worker for Department

Presiding at the Hearing was Cheryl Henson, 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 was correct in its proposal to reduce the Claimant's SNAP based on the imposition of a first offense FSE&T sanction.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual §13.6.A.2

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

**Department's Exhibits:**

- D-1 Case Comments from RAPIDS computer system
- D-2 Notification letter dated September 23, 2009
- D-3 RAPIDS computer screens
- D-4 Notification letter dated December 7, 2009
- D-5 WV Income Maintenance Manual Section 13.6
- D-6 WV Income Maintenance Manual Section 9.1.
- D-7 Handout for Able-Bodied Adults without Dependents

**Claimant's Exhibits:**

None

**VII. FINDINGS OF FACT:**

- 1) The Claimant was actively receiving SNAP, formerly known as Food Stamps, on December 7, 2009 when the Department determined that she had failed to cooperate with FSE&T by registering with the Bureau of Employment Programs within a specified timeframe. This is the Claimant's first offense. The Department sent the Claimant a notification letter (D-4) dated December 7, 2009 which includes the following pertinent information:

THIS SUMMARY IS FOR THE MONTH OF 01/2010 ONLY.

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)

ACTION: Your SNAP will decrease from \$367.00 to \$200.00 effective 01/01/10.

REASON: The number of people receiving this benefit has decreased.

The following is the list of individuals who are eligible for this benefit.

DARIO R LUKE

The following individuals are ineligible.

-----

Individual failed to register with BEP.

- 2) The Department contends that on September 23, 2009 the Claimant was notified (D-2) that she needed to register with BEP by October 22, 2009. The actual notification letter sent to the Claimant (D-2) states in pertinent part:

All supplemental Nutrition Assistance Program (SNAP) recipients for whom registration for work with the Bureau of Employment Programs (BEP) is required, must complete this mandatory registration within 30 days of the date 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:

----- 10/22/09

If you do not register by this date, but prior to the end of the month in which the registration is due, you must notify your Worker.

- 3) The Claimant did not register with BEP as instructed and the Department imposed a first offense sanction against the Claimant by removing her from the AG.
- 4) The Claimant contends that she did not realize that she had not registered with BEP as requested in September 2009. She subsequently registered with BEP on January 7, 2010.
- 5) The Department contends that even though the Claimant registered with BEP on January 7, 2010, she failed to register within the timeframe allotted and the sanction cannot be removed because it has already begun. The last time the Claimant registered with BEP was July 2008. The Claimant had no evidence to show she registered timely, and did not contend she met any exemptions to this policy.
- 6) The West Virginia Income Maintenance Manual §13.6 states in pertinent part:

#### 13.6 SNAP WORK REQUIREMENT PENALTIES

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

When determining the correct number of penalties, the Worker must look at the total number of penalties previously served, not just the number of penalties for each work requirement.

#### A. NON-WV WORKS RECIPIENT

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.

Penalties are applied sequentially, regardless of the requirement not met. In addition, penalties are applied consecutively and one penalty must end before another one is imposed.

## 2. Non-Voluntary Quit Penalties

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 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 provides that a penalty is imposed when a SNAP recipient who is mandatory to register with BEP fails to comply. In the instance of a first offense, a sanction is imposed by removing the non-compliant individual from the AG for at least three (3) consecutive months
- 2) There is no evidence to support that the Claimant registered with BEP within the timeframe allotted.
- 3) The Department was correct in its decision to impose a first offense sanction against the Claimant's SNAP case for her failure to comply with BEP registration policy.

## IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's action to reduce the Claimant's SNAP based on the imposition of a sanction.

## X. RIGHT OF APPEAL:

See Attachment

## XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 24<sup>th</sup> Day of March, 2010**

---

**Cheryl Henson  
State Hearing Officer**