



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

Earl Ray Tomblin
Governor

Michael J. Lewis, M.D., Ph.D.
Cabinet Secretary

May 29, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held May 29, 2012. Your hearing request was based on the Department of Health and Human Resources' decision to deny your application for Supplemental Nutrition Assistance Program [SNAP] benefits.

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 benefits are based on current policy and regulations. Some of these state that a SNAP penalty is imposed when mandatory individuals 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. For a non-WV WORKS recipient who refuses or fails to register with BEP, the individual is removed from the assistance group [AG] for at least 12 months or until he meets an exemption, whichever is less. (West Virginia Income Maintenance Manual §13.6)

The information submitted at your hearing supports that at the time of your March 19, 2012 SNAP application, you and your other household member were already in BEP sanction status and not eligible to be included in SNAP benefits. Your penalty period ends February 2013 and your household member's period ends August 2012. You did not report other individuals living in your household.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying your March 19, 2012 application for SNAP.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review /Tera Pendleton, Kanawha DHHR

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 12-BOR-1072

**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 Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This fair hearing was convened on May 29, 2012.

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, Department representative

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 decision to deny the Claimant's March 19, 2012 application for SNAP benefits.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual§ 13.6

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Case comments from Department's computer system dated from March 1, 2011 through April 12, 2012
- D-2 SNAP Work Requirement Sanction Request computer screens updated June 8, 2011
- D-3 Notice of Decision dated December 13, 2011
- D-4 Notice of Decision dated December 13, 2011
- D-5 SNAP Work Requirement Sanction Request computer screens updated January 19, 2012
- D-6 Notice of Decision dated January 20, 2012
- D-7 Notice of Decision dated January 20, 2012
- D-8 West Virginia Income Maintenance Manual Section 13.6

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Claimant applied for SNAP benefits on or about March 19, 2012. The Department denied the application and sent the Claimant a notification letter informing her that the application was denied because she and ----- did not register with the Bureau of Employment Programs (BEP).
- 2) The Department contends that after the Claimant submitted her March 2012 SNAP application, the Department reviewed its records and determined that the Claimant and her other household member were not eligible for SNAP because they were in sanction status for not complying with the Department's policy which required them to register with BEP.
- 3) The Department's records show (D-5) that the Claimant was placed in sanction status based on a third occurrence (D-6) of her failing to register with BEP during January 2012 and that her twelve-month penalty period began in February 2012 and will end after January 2013. These

records (D-5) also show that the Claimant's other household member entered a six-month penalty period in February 2012 and that his penalty period will end after July 2012.

- 4) The Claimant does not dispute that she and her household member failed to register with BEP during January 2012; however, she claims that she should only be in a six-month sanction based on a second occurrence. She stated that another individual was receiving SNAP benefits for her during 2010 in another county and unbeknownst to her, and that she was never made aware of her requirement to register with BEP at that time. She stated that this should not be held against her. The Claimant offered no written evidence in support of this claim, and stated that she had not appealed the matter with the Department in the county where the alleged incident occurred.
- 5) The West Virginia Department of Health and Human Resources Income Maintenance Manual §13.6, specifies that a SNAP penalty is imposed when mandatory individuals do not comply with the work requirement without good cause. A non-WV WORKS recipient who refuses or fails to register with BEP, refuses employment, or refuses to provide information about employment status and job availability, is subject to a twelve-month penalty for third and subsequent violations.

VIII. CONCLUSIONS OF LAW:

- 1) Policy specifies that mandatory individuals who do not comply with the work requirements in place for SNAP are subject to sanction penalties unless good cause is shown. Policy also specifies that for a third offense the sanction penalty period is twelve months.
- 2) The totality of the evidence supports that the Claimant did not register with BEP as required by the Department during January 2012, and that her failure to register constituted a third offense.
- 3) Although the Claimant testified that she was not aware of a prior occurrence of her failing to register with BEP and that she believes the occurrence should be disregarded when determining her number of offenses, there is no corroborating written evidence in support of this claim.
- 4) Based on the information provided during this hearing, the Department was correct in its decision to deny the Claimant's March 2012 SNAP application because all of the assistance group members were in sanction status and therefore not eligible to be included in a SNAP assistance group.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Department denying the Claimant's March 2012 SNAP application.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 29th Day of May 2012.

**Cheryl Henson
State Hearing Officer**