



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

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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 regulations state individuals who have been convicted of a felony offense which occurred on or after August 23, 1996, and which involved possession, use, or distribution of a controlled substance are permanently excluded by law from being included in a SNAP assistance group (AG). [West Virginia Income Maintenance Manual Section 9.1, A, 2 (g)]

The information submitted at your hearing supports that you were the only individual included in your SNAP application and you have been convicted of a felony drug offense which occurred on or after August 23, 1996.

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

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-1083**

**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

-----, Claimant's witness

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 application for SNAP benefits.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual § 9.1, A, 2 (g)

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

**Department's Exhibits:**

- D-1 Case comments from Department's computer system dated from April 10, 2012
- D-2 Notice of Decision dated April 11, 2012
- D-3 West Virginia Income Maintenance Manual Section 9.1, A, 2 (g)

**Claimant's Exhibits:**

None

**VII. FINDINGS OF FACT:**

- 1) The Claimant applied for SNAP benefits (D-1) on or about April 10, 2012, at the [REDACTED] County, West Virginia, Department of Health and Human Resources (DHHR) office in [REDACTED] West Virginia, by telephone interview. The Department denied the Claimant's application and sent the Claimant a notification letter (D-4) on or about April 11, 2012, which included the following pertinent information:

ACTION: Your 04/09/12 application for SNAP has been DENIED.

REASON: Each individual has failed for the reasons stated below.

The following individuals are ineligible.

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Disqualified for a Drug Felony Violation.

- 2) The Department contends that during the Claimant's telephone application interview on April 10, 2012, the Claimant disclosed that she was convicted of a drug felony during 2004. The Department contends policy mandates that she be excluded from the SNAP assistance group (AG) as a result of the drug felony. The Claimant reported (D-1) that she was the only

individual in her household; therefore, the SNAP application was denied as there were no eligible individuals living with the Claimant.

- 3) The Claimant does not dispute that she was convicted of a drug felony during 2004, but claims that she has been rehabilitated and needs the SNAP benefits. She stated that it is not fair for the Department to exclude her and allow individuals convicted of other felonies to receive SNAP. She added that she is a cancer survivor, receives disability income from the Social Security Administration, and cannot feed herself.
- 4) The West Virginia Department of Health and Human Resources' Income Maintenance Manual §9.1, A, 2, (g), specifies that individuals convicted of a felony drug offense which occurred on or after August 23, 1996, which involved possession, use, or distribution of a controlled substance are permanently excluded by law from being included in a SNAP assistance group (AG).

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

- 1) Policy specifies that individuals who are convicted of a felony drug offense which occurred on or after August 23, 1996, involving possession, use, or distribution of a controlled substance are permanently excluded by law from being included in a SNAP assistance group (AG).
- 2) The totality of the evidence supports that the Claimant has been convicted of a drug felony after August 23, 1996. The Claimant does not dispute this information. The Claimant applied for SNAP as a one (1) person household.
- 3) Based on the information provided during this hearing, the Department was correct and followed policy in its decision to deny the Claimant's SNAP application because of her felony drug conviction in 2004.

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

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying the Claimant's April 10, 2012 SNAP application.

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

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 29<sup>th</sup> Day of May 2012.**

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**Cheryl Henson  
State Hearing Officer**