



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 25, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held May 24, 2012. Your hearing request was based on the Department of Health and Human Resources' decision to terminate your eligibility 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 that all mandatory individuals must register for employment with WORKFORCE WV/BEP within 30 days of the date of the original approval, unless exempt, and every twelve (12) months thereafter. Individuals who fail to register by the due date required are subject to a SNAP penalty of twelve (12) month for a second offense. (West Virginia Income Maintenance Manual §13.5, A, and 13.6, A, 2)

The information submitted at your hearing supports that you failed to register with WORKFORCE WV/BEP within the required timeframe.

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

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review / Bonnie Wigal, [REDACTED] DHHR

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 12-BOR-1098

**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 hearing was convened on May 24, 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

Bonnie Wigal, 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 terminate the Claimant's eligibility for SNAP benefits.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual § 13.5 and 13.6

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Notice of Decision dated February 15, 2012
- D-2 Notice of Decision dated March 19, 2012
- D-3 West Virginia Income Maintenance Manual §13.5
- D-4 West Virginia Income Maintenance Manual §13.6

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Claimant was receiving Supplemental Nutrition Assistance Program [SNAP] benefits during February 2012 when the Department sent him a Notice of Decision (D-1) informing him of a mandatory requirement that he register with the Bureau for Employment Programs [BEP] by March 15, 2012. On March 19, 2012, the Department determined that the Claimant had not registered with BEP, and sent him a second Notice of Decision (D-2) which included the following pertinent information:

ACTION: Your SNAP benefits will stop. You will not receive this benefit after March 2012.

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

The following individuals are ineligible.

Individual failed to register with BEP.

A Supplemental Nutrition Assistance Program (SNAP) work requirement penalty has been applied to ----- . The reason for this penalty is because of

FAILURE TO REGISTER W/BEP. This is penalty number 2. ----- will remain ineligible for SNAP benefits FOR 6 MONTHS OR UNTIL COMPLIANCE, WHICHEVER IS LONGER

- 2) The Department contends that it acted correctly in applying a second-offense sanction against the Claimant. Bonnie Wigal, the Department's representative, is an Income Maintenance Worker in the [REDACTED] County, West Virginia, Department of Health and Human Resources (DHHR) office. She stated that she received notification during February 2012 that the Claimant was required to complete a twelve (12) month registration with BEP. She stated that she sent the Claimant the two (2) Notice of Decision letters listed above. She stated that she checked the computer system prior to imposing the six (6) month sanction against the Claimant and determined that he had not registered within the required timeframe. She further stated that if the Claimant had registered with BEP before March 31, 2012, the sanction could have been avoided.
- 3) The Claimant does not dispute that he was required to register with BEP or that he did not register. Rather, he contends that he did not receive the Notice of Decision letters (D-1, D-2) because his father retrieved the mail from his mail receptacle and lost it between the seats of his vehicle. He stated that his father did not notify him of the mail. He added that once he discovered there was a problem – when his SNAP card was not credited with his April 2012 SNAP benefits – he contacted the Department and registered with BEP that month. The Department's representative confirmed that the Claimant registered with BEP during April 2012, but added that the registration occurred after the imposition of the sanction and therefore too late to allow the Department to remove the penalty. She further stated that there is no provision in policy to allow the Department to remove the sanction based on these circumstances.
- 4) The West Virginia DHHR's Income Maintenance Manual §13.5, A, 1, provides that all mandatory individuals must register for employment with WORKFORCE WV/BEP within 30 days of the date of the original approval, unless exempt according to Section 13.2. Recipients must also register every twelve (12) months thereafter, regardless of the length of time that BEP considers the registration valid. A recipient who fails to register by the due date established on the Department's notification letter is subject to a SNAP penalty. If the Worker discovers that the recipient registered anytime before the end of the month in which the adverse notice expires (in this case March 31, 2012), the penalty is not imposed and any lost benefits are restored.
- 5) The West Virginia DHHR's Income Maintenance Manual §13.6, A, 2, provides that for a second violation, the individual is removed from the AG [assistance group] for at least an additional six (6) months, or until he meets an exemption, whichever is less. If after the six (6) months, the individual has not complied or met an exemption, the penalty continues until the failure or refusal ceases, or until the individual reports a change that makes him exempt. The Claimant did not dispute that this is his second violation and he did not claim an exemption.

VIII. CONCLUSIONS OF LAW:

- 1) Policy specifies that non-exempt individuals must register with BEP every twelve (12) months after SNAP approval, and that a second violation of this policy requires a six (6) month sanction penalty be applied.
- 2) The totality of the evidence supports that the Claimant was required to complete a twelve (12) month registration with BEP before March 31, 2012, and that he did not complete this within the timeframe specified. The evidence supports that the Department sent two notification letters to the Claimant prior to implementing the sanction; those notices were retrieved from the Claimant's mailbox and not returned to the Department. Policy requires that a sanction penalty be applied. For a second violation, the penalty period is six (6) months.
- 3) Based on the information provided during this hearing, the Department was correct in its decision to apply a second violation penalty against the Claimant due to his failure to register with BEP within the required timeframe.

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.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 24th Day of May 2012.

**Cheryl Henson
State Hearing Officer**