



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Earl Ray Tomblin
Governor

Rocco S. Fucillo
Cabinet Secretary

July 27, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held July 25, 2012. 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.

SNAP eligibility is based on current policy and regulations. Some of these regulations state that 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 three 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 your husband failed to register with WorkForce West Virginia 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 reduce your SNAP benefits.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Mark Kennedy, WVDHHR

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 12-BOR-1315

**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 via telephone on July 25, 2012, on a timely appeal filed May 21, 2012. The hearing was originally scheduled for June 21, 2012, but was rescheduled at the request of the Claimant.

It should be noted that benefits have 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 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 husband

Amanda Smith, Economic Service Supervisor, WVDHHR

Beverly Fox, Economic Service Worker, WVDHHR

Presiding at the hearing was Pamela L. Hinzman, 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 took the correct action in reducing the Claimant's SNAP benefits based on the imposition of a work requirement penalty.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Sections 13.5.A and 13.6.A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Request for verification of WorkForce West Virginia registration dated February 21, 2012
- D-2 Notice of Decision dated March 28, 2012
- D-3 West Virginia Income Maintenance Manual Sections 13.2 and 13.5
- D-4 Case Comments dated May 7, 2012

Claimant's Exhibits:

- C-1 Information from WorkForce West Virginia

VII. FINDINGS OF FACT:

- 1) The Claimant was a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits.
- 2) On February 21, 2012, the Department sent the Claimant a notice (D-1), informing her that her husband, -----, must register with WorkForce West Virginia by March 21, 2012, as he is a mandatory work registrant.
- 3) WVDHHR Economic Service Supervisor (ESS) Amanda Smith testified that ----- failed to register with WorkForce West Virginia and a minimum three-month penalty was imposed on the Claimant's SNAP case effective May 2012. The Claimant was informed of the penalty and the reduction of her SNAP benefits in a Notice of Decision dated March 28, 2012 (D-2).
- 4) Exhibit D-4 indicates that the Claimant telephoned the WVDHHR on May 7, 2012, to inform the Department that her husband registered with WorkForce West Virginia on April 12, 2012.

- 5) The Claimant testified that she did not receive the February 21, 2012, letter instructing her husband to register with WorkForce West Virginia. She contended that she did not receive the March 28, 2012, Notice of Decision until April 12, 2012, and stated that her husband registered with WorkForce West Virginia on that date (see Exhibit C-1). The Claimant testified that she completed a SNAP redetermination in March 2012 and was not advised that her husband needed to register with WorkForce West Virginia. The Claimant's husband testified that the family has had problems with their mailman placing mail in the incorrect box.

ESS Smith stated that there is no evidence to indicate the February 2012 letter was returned to the Department by the U.S. Postal Service.

- 6) West Virginia Income Maintenance Manual Section 13.5.A (D-3) states:

All mandatory individuals must register for employment with WorkForce West Virginia, within 30 days of the date of the original approval, unless exempt according to Section 13.2. Recipients must register every 12 months thereafter, regardless of the length of time that WorkForce West Virginia considers the registration valid. Actions which constitute a registration are defined by WorkForce West Virginia...

A recipient who fails to register by the due date established on the DFA-6 or verification checklist is subject to a SNAP penalty and the Worker must send an adverse action notice. See Section 13.6. If the Worker discovers or the client notifies the Worker that he registered anytime before the end of the month in which the adverse notice expires, the penalty is not imposed and any lost benefits are restored...

- 7) West Virginia Income Maintenance Manual Section 13.6.A states:

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 WorkForce West Virginia, 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 for some reason other than UCI-related activities.

VIII. CONCLUSIONS OF LAW:

- 1) Policy reveals that all non-WV WORKS recipients who are mandatory work registrants must register with WorkForce West Virginia to maintain SNAP eligibility once every 12 months. If a mandatory work registrant fails to register with WorkForce West Virginia, he is removed from the Assistance Group for three months or until he reports a change that makes him exempt. The minimum penalty must be served unless the client reports an exemption.
- 2) The Claimant maintains that she did not receive the February 2012 letter requesting that her husband register with WorkForce West Virginia; however, there is no evidence to indicate the notice was returned to the Department by the U.S. Postal Service. The Claimant received the March 2012 letter informing her that her SNAP benefits would decrease and her husband completed the registration in April 2012. However, she did not inform the Department of the registration until May 7, 2012, after the penalty period had already begun.
- 3) Based on documentation and testimony offered during the hearing, the Department acted correctly in imposing a penalty to the Claimant's SNAP benefits, as the Claimant failed to verify her husband's WorkForce West Virginia registration in a timely manner.

IX. DECISION:

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

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 27th Day of July, 2012.

Pamela L. Hinzman
State Hearing Officer