



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
9083 Middletown Mall
White Hall, WV 26554

Earl Ray Tomblin
Governor

Rocco S. Fucillo
Cabinet Secretary

September 5, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held September 4, 2012. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your benefits through the Supplemental Nutrition Assistance Program (SNAP) based on the imposition of a first violation (3-month) work penalty.

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 for SNAP benefits is based on current policy and regulations. Some of these regulations state that all SNAP recipients are subject to a work requirement, unless exempt. Among the work requirements for SNAP participation is registration with the BEP [Bureau of Employment Programs]. A SNAP penalty is imposed when individuals do not comply with work requirements, and a first violation results in the individual being removed from the SNAP AG [Assistance Group] for a minimum of 3 months, or until an exemption is met - whichever is less. A parent or other member of the AG who has the responsibility for the care of a child under the age of 6 is exempt from registration with BEP. (West Virginia Income Maintenance Manual Chapters 13.2 & 13.6)

Information submitted at your hearing reveals that you met an exemption to the SNAP BEP registration requirement before the adverse action notice was sent.

It is the decision of the State Hearing Officer to **reverse** the proposal of the Department to apply a first-level penalty to your SNAP benefits.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Tera Pendleton, ESW, WVDHHR

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

-----,

Claimant,

v.

Action Number: 12-BOR-1876

**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 September 4, 2012, on a timely appeal filed July 27, 2012.

II. PROGRAM PURPOSE:

The purpose of the SNAP Program 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 EBT 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 Thomas Arnett, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department was correct in its decision to impose a SNAP penalty in the Claimant's case.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual § 13.2, 13.5 and 13.6
7 CFR § 273.7 Code of Federal Regulations

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Case Comments dated 7/17/12 through 8/14/12
- D-2 Notice of Decision dated 4/16/12
- D-3 SNAP Work Requirement Sanction Request dated 7/17/12
- D-4 Notice of Decision dated 7/18/12
- D-5 West Virginia Income Maintenance Manual Chapter 13.6

VII. FINDINGS OF FACT:

- 1) On or about April 16, 2012, the Claimant was notified via a Notice of Decision (D-2) that all Supplemental Nutrition Assistance Program (SNAP) recipients are required to register with the Bureau of Employment Programs (BEP) within 30 days of their SNAP application, and every 12 months thereafter, unless otherwise exempt. The Claimant was advised that she had to register with BEP by May 13, 2012.
- 2) There was no further action in the Claimant's SNAP case until July 17, 2012 (Exhibit D-1), when the Women's and Children's Hospital verified that the Claimant gave birth to a daughter on July 12, 2012. While case comments made on July 17, 2012 indicate that Medicaid and SNAP benefits were updated to include the birth of the Claimant's child, Exhibit D-3 reveals that a SNAP work requirement sanction request was completed based on the Claimant's failure to register with BEP. The Claimant was subsequently notified via the July 18, 2012 Notice of Decision (Exhibit D-4) that a first violation SNAP work requirement penalty was being applied and that she would remain ineligible for SNAP benefits for three (3) months, or until compliance, whichever was longer. This notice advised the Claimant that she would receive another notice informing her of the change in the amount of her benefits or closure of her case, whichever applies.
- 3) Testimony proffered by the Department's representative reveals that the SNAP penalty has not been applied due to the Claimant's appeal and request for continued benefits.

- 4) West Virginia Income Maintenance Manual, Chapter 13.5.A.1 provides work registration requirements for SNAP benefits, and states that all mandatory individuals must register for employment with WORKFORCE WV/BEP, referred to in this section as BEP, 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. Once the client registers with WorkForce West Virginia for SNAP purposes, he cannot be required to register more often than every 12 months, even when the benefit is opened and closed within the 12-month period.
- 5) West Virginia Income Maintenance Manual Chapter 13.2 (General Snap Work Requirements and Exemptions) provides that all SNAP recipients are subject to a work requirement, unless exempt. This section of policy provides reasons for which an individual can be found exempt and includes a parent, or other member of the AG, who has the responsibility for the care of a child under the age of 6.
- 6) West Virginia Income Maintenance Manual, Chapter 13.6, states in part - A SNAP penalty is imposed when individuals do not comply with work requirements. Penalties are as follows: First violation - The individual is removed from the AG for a minimum of 3 months. If non-compliance continues, the penalty continues until the failure or refusal stops or until the individual reports a change that makes him exempt. Second violation: The individual is removed from the AG for at least 6 months or until he meets an exemption, whichever is less. Third and subsequent violations: The individual is removed from the AG for no more than 12 months or until he meets an exemption, whichever is less. If the individual does not meet an exemption, prior to the end of the penalty he is added back into the AG after 12 months.

VIII. CONCLUSIONS OF LAW:

- 1) Policy provides that all SNAP recipients are subject to a work requirement, unless exempt. Among the reasons for which an individual can be exempt from the SNAP work requirements is if they are a parent caring for a child under six (6) years old.
- 2) Evidence submitted in the case reveals that while the Claimant was notified in April 2012 that she was required to register with BEP by May 13, 2012, she met the exemption to the SNAP work requirement before the SNAP penalty was imposed. The Claimant gave birth to a child on July 12, 2012, verified on July 17, 2012, one day prior to the July 18, 2012 notice advising the Claimant of the impending SNAP penalty.

IX. DECISION:

It is the decision of the State Hearing Officer to **reverse** the proposal of the Department to apply a first penalty to 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 ____ Day of September 2012.

**Thomas E. Arnett
State Hearing Officer**