



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

October 25, 2012

Dear Ms. ----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held October 18, 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 second violation, the individual is removed from the Assistance Group for at least six 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 you failed to register with WorkForce West Virginia in a timely manner and were correctly placed in a SNAP work sanction effective July 2012. However, as an SSI recipient, you are now considered physically or mentally unfit to engage in full-time employment and, therefore, have met an exemption from SNAP work requirements.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to apply a work penalty and reduce your SNAP benefits effective July 2012. However, the Department must now remove the SNAP penalty and restore SNAP benefits retroactively to the date SSI eligibility was determined.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Angela Jennings, ESS, WVDHHR

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

IN RE: ----,

Claimant,

v.

ACTION NO.: 12-BOR-2182

**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 October 18, 2012, on a timely appeal filed August 20, 2012.

It should be noted that benefits have not 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

Angela Jennings, Economic Services Supervisor, 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 13.2.A.2, 13.5.A and 13.6.A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 West Virginia Income Maintenance Manual Sections 13.5 and 13.6
- D-2 Notice of Decision dated April 10, 2012
- D-3 Notice of Decision dated May 25, 2012
- D-4 SNAP Work Requirement Sanction Requests
- D-5 Case Comments dated May 24, 2012

VII. FINDINGS OF FACT:

- 1) The Claimant was a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits.
- 2) On April 10, 2012, the Department sent the Claimant a notice (D-2), informing her that she must register with the Bureau of Employment Programs (BEP)/WorkForce West Virginia by May 9, 2012, as she was a mandatory work registrant.
- 3) WVDHHR Economic Services Supervisor (ESS) Angela Jennings testified that the Claimant failed to register by May 9, 2012, and a six-month penalty was imposed on the Claimant's SNAP case effective July 2012. The Claimant was informed of the penalty and the reduction of her SNAP benefits in a Notice of Decision dated May 25, 2012 (D-3). ESS Jennings indicated that a six-month penalty was applied because the Claimant had been subject to a previous work sanction.
- 4) ESS Jennings testified that the Claimant provided proof of BEP/WorkForce West Virginia registration on July 16, 2012; however, the sanction had started on July 1, 2012, and could not be lifted.
- 5) The Claimant testified that she did not receive the April 10, 2012, letter instructing her to register with WorkForce West Virginia. She also contended that she did not receive the May 25, 2012, Notice of Decision. The Claimant stated that her son passed away in May 2012, and there were many people in and out of her home at that time. The Claimant contended that she provided the Workforce West Virginia registration as soon

In addition, the Claimant testified that she applied for Social Security Disability benefits and was approved for Supplemental Security Income (SSI) benefits for six months, beginning in October 2012. ESS Jennings stated she believes that the Department has received verification of the Claimant's SSI eligibility.

6) West Virginia Income Maintenance Manual Section 13.5.A (D-1) 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.
 - Second violation: The individual is removed from the AG for at least an additional 6 months or until he meets an exemption, whichever is less. If after the 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 according to Section 13.2 for some reason other than UCI-related activities.
- 8) West Virginia Income Maintenance Manual Section 13.2.A.2 states that “individuals who are physically or mentally unfit to engage in full-time employment are exempt from SNAP work requirements. See Section 12.15. Should the client become able to work, he becomes subject to the SNAP work requirements at the next redetermination, unless exempt for some other reason.”

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 six months – for a second violation - or until he reports a change that makes him exempt. The minimum penalty must be served unless the client reports an exemption.
- 2) The Department requested that the Claimant register with WorkForce West Virginia by May 9, 2012, and the Claimant did not register until July 16, 2012, after her six-month sanction period had already begun. However, the Claimant began receiving SSI benefits in October 2012 and now meets an exemption from work requirements.
- 3) Based on documentation and testimony offered during the hearing, the Department acted correctly in imposing a penalty on the Claimant’s SNAP benefits effective July 2012. However, the sanction must now be lifted retroactively to the date of SSI eligibility.

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 effective July 2012. The Department must now lift the sanction, however, and restore SNAP benefits retroactively to the date the Claimant was determined eligible for SSI benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 25th Day of October 2012.

Pamela L. Hinzman
State Hearing Officer