



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

November 16, 2012

Dear Mr. ----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held November 8, 2012. Your hearing request was based on the Department of Health and Human Resources' action to terminate your Supplemental Nutrition Assistance Program (SNAP) benefits based on the imposition of a sanction/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 is based on current policy and regulations. Some of these regulations state that all mandatory individuals must register with BEP for employment within 30 days of the date of the original approval, unless exempt according to Section 13.2. A recipient who fails to register by the due date established on the ES-6 or verification checklist is subject to a SNAP penalty. The penalty for a first violation results in the individual being removed from the Assistance Group (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 them exempt. (West Virginia Income Maintenance Manual §§13.2, 13.5, & 13.6 and 7 CFR §273.7 Code of Federal Regulations)

The information submitted at your hearing reveals that you failed to register with BEP by the due date established on the verification request form.

It is the decision of the State Hearing Officer to **uphold** the action of the Agency to apply a 3-month SNAP penalty. The penalty began effective October 1, 2012.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Mark Paree, ESS, DHHR

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

----,

Claimant,

v.

Action Number: 12-BOR-2318

**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 November 8, 2012, on a timely appeal filed October 12, 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

Mark Paree, ESS, WVDHHR 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 the Department was correct in its action to terminate the Claimant's benefits by imposing a SNAP penalty.

V. APPLICABLE POLICY:

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

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

- D-1 Work Force West Virginia BEP registration/contact verification for ----
- D-2 Notice of Decision dated 7/18/12
- D-3 Case Comments for the period of 8/22/12 through 10/5/12
- D-4 Notice of Decision dated 8/23/12
- D-5 Notice of Decision dated 10/5/12

VII. FINDINGS OF FACT:

- 1) On October 4, 2012, Claimant completed an application for Supplemental Nutrition Assistance Program (SNAP) benefits. The Claimant was notified that his application was denied via a Notice of Decision dated October 5, 2012 (D-5). This notice indicates that his application was denied because he failed to register with WORK FORCE West Virginia, pursuant to policy requirements found in the West Virginia Income Maintenance Manual §§13.2 and 13.5.
- 2) Respondent submitted Exhibit D-2, wherein, Claimant was notified that he was required to register with the Bureau of Employment Programs (BEP) by August 16, 2012. Respondent cited case comments dated August 22, 2012 (D-3) and the Notice of Decision advising Claimant he was being placed in a BEP SNAP penalty for failure to register with BEP. Respondent noted, however, that the BEP penalty should only be in place for 3 months (October, November and December 2012), as opposed to the 6 months indicated in the notice.
- 3) Information included in Exhibit D-1 reveals that the Claimant has since registered with BEP (10/4/12), however, the registration date prior to this indicates his last registration contact with BEP occurred on May 18, 2011.
- 4) The Claimant proffered testimony that he did not think it was fair to place a penalty against his SNAP benefits when Exhibit D-1 shows that he has historically maintained contact with BEP. Moreover, he did not think it was fair to take his SNAP benefits away for such a long period.

- 5) West Virginia Income Maintenance Manual, Chapter 13.5 states, in pertinent part, that all mandatory individuals must register with BEP for employment within 30 days of the date of the original approval, unless exempt according to Section 13.2. They must register every 12 months thereafter, regardless of the length of time that BEP considers the registration valid. Actions which constitute a registration are defined by BEP. A recipient who fails to register by the due date established on the ES-6 or verification checklist is subject to a SNAP penalty and the worker must send an adverse action notice. If the client registers anytime before the end of the month in which the adverse notice expires, the penalty is not imposed and any lost benefits are restored.
- 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 and do not have good cause. Penalties are: 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.

NOTE: 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.

VIII. CONCLUSIONS OF LAW:

- 1) The regulations that govern SNAP require recipients who are not exempt to register with BEP for employment within 30 days of the date of the original approval and every 12 months thereafter. Failure to comply with BEP registration results in a SNAP penalty unless good cause is established. The individual is removed from the AG for a minimum of 3 months and if non-compliance continues, the penalty continues until the failure or refusal stops or until the individual reports a change that makes him exempt. If the client registers anytime before the end of the month in which the adverse notice expires, the penalty is not imposed and any lost benefits are restored.
- 2) Evidence submitted in this case reveals that the Claimant's last registration date with BEP was May 18, 2011, and because he had not registered within the last 12 months, he was advised to complete BEP registration by August 16, 2012. While the evidence confirms that the Claimant has demonstrated a record of compliance, there are no provisions in SNAP policy to make an exception to the annual BEP work registration requirements.
- 3) Based on the evidence, the Respondent was correct to impose a 3-month SNAP penalty. Policy dictates that once a penalty is applied, the minimum penalty must be served unless an exemption is met. Although the Claimant has since complied with registration requirements, the 3-month SNAP penalty imposed effective October 1, 2012 must be served by the Claimant.

IX. DECISION:

The Department's action to apply a 3-month SNAP penalty is **upheld**. The penalty will remain in place for 3 months or until the Claimant meets an exemption.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ Day of November 2012.

**Thomas E. Arnett
State Hearing Officer**