



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

Karen L. Bowling
Cabinet Secretary

January 23, 2015



RE: [REDACTED] v. WVDHHR
ACTION NO.: 14-BOR-3899

Dear Mr. [REDACTED]

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

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.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

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

Encl: Claimant's Recourse to Hearing Decision
Form IG-BR-29

cc: Angela Jennings, WVDHHR

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

████████████████████,

Claimant,

v.

Action Numbers: 14-BOR-3899

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Respondent.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision 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 fair hearing was convened on January 21, 2015, on an appeal filed December 17, 2014.

The matter before the Hearing Officer arises from the October 28, 2014 decision by the Respondent to terminate Supplemental Nutrition Assistance Program (SNAP) benefits effective December 2014.

At the hearing, the Respondent appeared by Angela Jennings, Economic Services Supervisor, WVDHHR. The Claimant appeared pro se. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 West Virginia Income Maintenance Manual Chapter 13.2A
- D-2 West Virginia Income Maintenance Manual Chapters 13.5A and 13.6
- D-3 Case Comments from Department's computer system for the period of August 19, 2014- December 10, 2014
- D-4 WorkForce West Virginia information
- D-5 Notice requesting WorkForce West Virginia registration dated September 18, 2014
- D-6 Notice of Decision dated October 28, 2014

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the

evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) The Claimant was a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits and was notified by the Department on October 28, 2014 (D-6) that his SNAP benefits would stop effective December 2014, based on failure to register with WorkForce West Virginia/West Virginia Bureau of Employment Programs (BEP).
- 2) Angela Jennings, Economic Services Supervisor (ESS) with the Respondent, testified that the Department sent the Claimant a letter (D-5) on September 18, 2014, requesting that he register with WorkForce West Virginia by October 17, 2014, in accordance with policy.
- 3) ESS Jennings testified that the Claimant failed to register with WorkForce West Virginia and a three-month sanction was imposed on his SNAP benefits effective December 2014. She indicated that the Claimant later registered with WorkForce West Virginia on December 2, 2014 (D-4); however, the sanction was already in place and could not be lifted.
- 4) The Claimant testified that he cannot read and attempted to call his Department worker after he received his letter. He contended that his worker did not return the call until December 2, 2014, at which time he learned that he needed to register with WorkForce West Virginia. The Claimant indicated that he is homeless and has been taking food from garbage dumpsters. ESS Jennings stated that the Department could provide the Claimant with a referral to a food pantry. The Claimant indicated that he was severely burned and has medical problems that prevent him from working; however, no evidence was provided to indicate that his disability had been confirmed by a physician.

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 13.6.A.2 (D-2) states that 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 the work requirements. For a first violation, the individual is removed from the SNAP Assistance Group for at least three months or until he meets an exemption, whichever is later.

West Virginia Income Maintenance Manual Chapter 13.2.A.2 states that individuals who are physically or mentally unfit to engage in full-time employment are exempt from work

registration. This chapter refers to Section 12.15 of the manual, which states that disability can be established without a doctor's statement when an individual receives benefits from a governmental or private source, and these benefits are based on his own illness, injury or disability. Disability can also be established with a physician's statement when the document contains enough information to allow the worker to determine if the client's condition renders him unfit for employment. If the physician makes a definite statement that the client is permanently and totally disabled, no further information is needed. Usually, however, the physician describes the situation, and the Worker must make the determination. In these situations, the statement must contain:

- The type of condition, including the diagnosis if known;
- Any unusual limitations the condition imposes on the client's lifestyle; and
- The length of time the condition is expected to last. This is required only to set a control for re-evaluation; there is no durational requirement for which the condition must exist or be expected to exist.

DISCUSSION

The Claimant failed to register with Workforce West Virginia as required by the Department in October 2014. Therefore, the Department has correctly applied a three-month sanction to his SNAP benefits. While the Claimant testified that he has health issues that prevent him from seeking employment, no information was provided to confirm a disability for SNAP work exemption purposes.

CONCLUSIONS OF LAW

The Department acted correctly in terminating the Claimant's SNAP benefits effective December 2014.

DECISION

It is the decision of the State Hearing Officer to UPHOLD the Department's action to terminate SNAP benefits effective December 2014.

ENTERED this 23rd Day of January 2015.

**Pamela L. Hinzman
State Hearing Officer**