



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

Bill J. Crouch  
Cabinet Secretary

Jolynn Marra  
Interim Inspector General

June 3, 2021

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 21-BOR-1618

Dear Ms. [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: Appellant's Recourse to Hearing Decision  
Form IG-BR-29

Cc Michael Phillips, WVDHHR

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

[REDACTED],

**Appellant,**

**v.**

**Action Number: 21-BOR-1618**

**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 [REDACTED]. 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 June 2, 2021, on an appeal filed May 18, 2021.

The matter before the Hearing Officer arises from the May 12, 2021 decision by the Respondent to terminate Supplemental Nutrition Assistance Program (SNAP) benefits based on the imposition of a penalty for voluntary loss of employment.

At the hearing, the Respondent appeared by Michael Phillips, Economic Services Supervisor, WVDHHR. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Notice of Decision and notice of penalty dated May 12, 2021
- D-2 Fair Hearing Request received by Respondent on May 18, 2021
- D-3 Employment Statement provided to Respondent on May 10, 2021
- D-4 Copies of text messages between Appellant and her supervisor, [REDACTED]
- D-5 West Virginia Income Maintenance Manual Chapters 14.4.1 and 14.5.1.A

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 Appellant was a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits.
- 2) The Appellant injured her hip in early April 2021 and was released to work on April 12, 2021.
- 3) The Appellant returned to work on April 13, 2021, but was required to sew items in a seated position for eight hours per day, and found that the work exacerbated pain from her injury.
- 4) On April 30, 2021, the Appellant reported a loss of employment to the Respondent.
- 5) An Employment Statement from [REDACTED] provided to the Respondent on May 10, 2021 (D-3) lists the Appellant's last day of work as April 13, 2021.
- 6) The Employment Statement cites the reason for separation as "not coming to work- had to get job covered."
- 7) A series of text messages between the Appellant and her supervisor on April 28, 2021 detail a conversation in which the Appellant was advised not to return to work (D-4).
- 8) The Respondent determined that the Appellant voluntarily quit employment, and applied a penalty to the Appellant's SNAP benefits effective June 2021.
- 9) The Respondent sent the Appellant Notices of Decision on May 12, 2021 (D-1) indicating that the penalty had been applied and SNAP benefits would be terminated effective June 2021.

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual Chapter 14.1.1 (D-5) states that applicants who voluntarily quit employment without good cause are ineligible for SNAP benefits for three months, while a penalty is applied to an active client without good cause. A voluntary quit has occurred when all of the following conditions exist without good cause.

- The individual left full-time employment of at least 30 hours per week, other than self-employment, of his own volition, or the individual voluntarily reduced his work hours to below 30 hours/week.
- The individual who left employment was not exempt from the work requirement at the time of the quit.
- The individual quit the most recent job of at least 30 hours per week within 60 days prior to the date of application, or anytime thereafter.

West Virginia Income Maintenance Manual Chapter 14.4.3 states that once a determination is made that the client voluntarily quit, the worker determines if the individual had good cause for leaving employment. A determination of good cause can be made for several reasons, including the following:

- Leaving employment due to circumstances beyond the client's control, such as, but not limited to: illness, illness of another Assistance Group member requiring the presence of the client, a household emergency, the unavailability of transportation, or lack of adequate child care for a child who is at least age 6, but not yet age 12.

### **DISCUSSION**

Policy states that a voluntary quit penalty can be applied to SNAP benefits when an individual voluntarily reduces his/her work hours to below 30 hours/week. Once a determination is made that a client voluntarily quit employment, the worker determines if the individual had good cause for leaving employment. A determination of good cause can be made for several reasons, including when the individual leaves employment due to his/her own illness.

The Appellant testified that she injured her hip in early April 2021, and was released to work by her physician on April 12, 2021. The Appellant went back to work on April 13, 2021, but had to sit for eight hours per day to sew. She stated that her injury caused problems with walking, sitting, and standing, and that she experienced physical difficulty sitting at work. She stated that she had to take additional days off from work because she felt that she could not do the job at that time. She indicated that she had followed company policy and called in sick every day that she did not attend work.

The Appellant contended that she did not quit her job and tried to return to work, but her supervisor, [REDACTED], would not allow it. In text messages from April 28, 2021, Ms. [REDACTED] indicated that the Appellant's doctor released her to work on April 12, 2021 and that she had only worked eight hours since that time. Ms. [REDACTED] stated that the Appellant's absence was slowing production. In the text messages, the Appellant repeatedly pleaded to keep her job and stated that she would return to work on the following day, but Ms. [REDACTED] indicated that it was too late and she could not continue to allow the situation.

Michael Phillips, Economic Services Supervisor, stated that he conducted a pre-hearing conference with the Appellant, at which time the Appellant said she had been unable to work due to her hip injury, but had not returned to her physician since she was released from care on April 12, 2021. She indicated that she was not participating in physical therapy at that time.

While it is understandable that the employer encountered production problems while the Appellant was absent from work, there is no indication that the Appellant was warned that she needed to return to work prior to the date her employment was terminated. It is reasonable to believe that the Appellant would have difficulty sitting and operating a sewing machine for eight hours per day

while she was experiencing hip pain. Text messages between the Appellant and her supervisor reveal that the Appellant made several pleas to keep her job and did not wish to terminate her employment. Had the Appellant voluntarily quit her job, however, exceptions to the voluntary quit policy can be made when an individual leaves employment due to circumstances beyond her control, such as illness.

Based on information presented during the hearing, the Respondent's decision to apply a voluntary quit penalty to the Appellant's SNAP benefits cannot be affirmed.

### **CONCLUSIONS OF LAW**

- 1) A voluntary quit penalty can be applied to SNAP benefits if a recipient voluntarily reduces his/her work hours to below 30 hours/week.
- 2) The Appellant's employer informed her on April 28, 2021 that she could not return to work due to her prolonged absence after a hip injury.
- 3) The Appellant did not voluntarily reduce her work hours, but was physically unable to work due to her own injury, a circumstance beyond her control which meets voluntary quit good cause criteria.
- 4) The Respondent's decision to apply a voluntary quit penalty to the Appellant's SNAP benefits cannot be affirmed.

### **DECISION**

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's action to apply a voluntary quit penalty to the Appellant's SNAP benefits.

**ENTERED this 3<sup>rd</sup> Day of June, 2020.**

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**Pamela L. Hinzman  
State Hearing Officer**

