



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
4190 Washington Street, West  
Charleston, WV 25313

Earl Ray Tomblin  
Governor

Michael J. Lewis, M.D., Ph. D.  
Cabinet Secretary

June 10, 2011

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on the Supplemental Nutrition Assistance Program (SNAP) Administrative Disqualification Hearing held June 9, 2011 for the purpose of determining whether or not you committed an Intentional Program Violation (IPV).

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 as follows: Intentional Program Violations shall consist of having intentionally: (1) made a false or misleading statement or misrepresented, concealed or withheld facts or (2) committed any act that constitutes a violation of the [SNAP] Act, the SNAP Regulations, or any State statute relating to the use presentation, transfer, acquisition, receipt or possession of SNAP benefits. Individuals found to have committed an act of Intentional Program Violation will be ineligible for a specified time determined by the number of previous Intentional Program Violation disqualifications. (West Virginia Income Maintenance Manual §20.2 and Code of Federal Regulations - 7 CFR §273.16).

The information submitted at the hearing showed that you intentionally provided false information about your household's income in order to receive SNAP for which you were not entitled.

It is the decision of the State Hearing Officer to **uphold** the Agency's proposal to apply a one (1) year SNAP disqualification penalty against you based on an Intentional Program Violation. Your penalty begins July 1, 2011.

Sincerely,

Cheryl Henson  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review/ Jennifer Butcher, Kanawha DHHR

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

**IN RE: -----,**

**Defendant,**

**v.**

**ACTION NO.: 11-BOR-1026**

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

**Movant.**

**DECISION OF STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from an Administrative Disqualification 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 hearing was convened on June 9, 2011.

**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:**

Jennifer Butcher, Department Representative

Presiding at the Hearing was Cheryl Henson, 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 Defendant committed an intentional program violation and should be disqualified for one year from participation in SNAP.

**V. APPLICABLE POLICY:**

7 CFR § 273.16 USDA Code of Federal Regulations  
Common Chapters Manual Chapter 700, Appendix A  
West Virginia Income Maintenance Manual §1.2, 2.2, 9.1.A.2.h, 20.6, and 20.2

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

- D-1 Benefit Recovery Referral screen from Department's computer system dated June 1, 2011, one (1) page
- D-2 West Virginia Income Maintenance Manual §1.2.E
- D-3 Code of Federal Regulations §7 CFR273.16
- D-4 Application dated June 14, 2007 with supporting documents including Rights and Responsibilities form, twenty-seven (27) pages
- D-5 Children's Medicaid application dated June 14, 2007, two (2) pages
- D-6 Self-completed application dated December 26, 2007 and supporting documents including Rights and Responsibilities form, fifty (50) pages
- D-7 Income verification from ---- [REDACTED] dated July 30, 2009
- D-8 [SNAP] Claim Determination forms and supporting documentation, twenty (20) pages
- D-9 West Virginia Income Maintenance Manual Section 2.2.B
- D-10 West Virginia Income Maintenance Manual Section 2.2.B.1
- D-11 West Virginia Income Maintenance Manual Section 2.2
- D-12 West Virginia Income Maintenance Manual Section 20.6.A
- D-13 Notification letters to Defendant dated March 16, 2011, four (4) pages
- D-14 West Virginia Income Maintenance Manual Section 20.2.C.2
- D-15 West Virginia Income Maintenance Manual Section 20.2
- D-16 West Virginia Income Maintenance Manual Section 20.2.F

**Claimant's Exhibits:**

None

**VII. FINDINGS OF FACT:**

- 1) A request for an Administrative Disqualification Hearing, hereinafter ADH, was received by the Board of Review from the Department of Health and Human Resources, hereinafter Department, on April 25, 2011. The Department contends that the Defendant has committed an Intentional Program Violation, hereinafter IPV, and made a fraudulent statement or

misrepresentation regarding her household income in order to receive SNAP, and is recommending that she be disqualified from participation in SNAP for a period of one (1) year.

- 2) Notification of the June 9, 2011 hearing was mailed to the Defendant on or about May 5, 2011 via first class mail delivery, as the Defendant is a current recipient of benefits through the Department and resides at an address known to be good by the Department.
- 3) The hearing was convened as scheduled at 11:00 a.m., and as of 11:18 a.m. the Defendant failed to appear or notify the Board of Review of any conflict preventing her from appearing. As set forth in the Code of Federal Regulations found at §7 CFR 273.16 (e) (4), and State Policy (West Virginia Department of Health and Human Resources Common Chapters Manual, Chapter 740.20), the hearing was conducted without the Defendant in attendance.
- 4) On or about March 16, 2011 the Department sent the Defendant a Notification of Intent to Disqualify (D-13) form, indicating that it had reason to believe she intentionally violated a SNAP rule. The form also included the following:

Based on the evidence developed through our investigation, the agency believes that ----- intentionally violated the [SNAP] by: failing to report at 6/14/07 review that she was working at [REDACTED] starting 2/23/07. The evidence to prove this allegation consists of income verification from [REDACTED]

- 5) The Department presented evidence to show that the Defendant completed a SNAP application (D-4) interview on June 14, 2007, at which time she did not report earned income from Embassy Suites. She signed the application indicating she understood her responsibility to report accurate and truthful information. She also signed the Rights and Responsibilities form (D-4) indicating she understood her responsibility to report accurate and truthful information and the penalties for failure to do so. She certified that the information she provided was true and correct.
- 6) The Department presented evidence to show (D-5) that the Defendant self-completed a Medicaid application on June 14, 2007 at which time she reported no earned income. She signed the form indicating that she understood her responsibility to report accurate and truthful information.
- 7) The Department presented evidence to show (D-6) that the Defendant self-completed a SNAP application form on December 26, 2007, at which time she again reported that she was not employed and had no earned income.
- 8) Additional evidence (D-7) shows that the Defendant was employed with [REDACTED] from February 23, 2007 through February 13, 2008, and that she earned one thousand seventy-two dollars and ninety one cents (\$1072.91) during the month of her June 2007 application interview; she earned one thousand sixty-four dollars and fifty eight cent (\$1064.58) during the month she completed the December 2007 application interview. She did not report this income.

9) West Virginia Income Maintenance Manual §1.2 (E) states that it is the client's responsibility to provide information about his circumstances so the worker is able to make a correct decision about his eligibility.

10) West Virginia Income Maintenance Manual § 20.2 (C) (2) states in pertinent part:

IPV's include making false or misleading statement, misrepresentations, concealing or withholding information, and committing any act that violates the [SNAP] Act of 1977, [SNAP] regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of [SNAP].

The individual(s) who is found to have committed an IPV is ineligible to participate in the program for a specified time, depending on the number of offenses committed.

Once an IPV is established, a disqualification penalty is imposed on the AG member(s) who committed the IPV.

11) Common Chapters Manual 700, Appendix A, Section B, provides that an Intentional Program Violation shall consist of having intentionally (1) made a false or misleading statement, or misrepresented, concealed or withheld facts, or (2) Committed any act that constitutes a violation of the [SNAP] Act, the [SNAP] Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt or possession of [SNAP] benefits.

12) Common Chapters Manual 700, Appendix A, Section G, states that the State Hearing Officer shall base the determination of Intentional Program Violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, an Intentional Program Violation as defined in Section B of this Appendix.

13) The Defendant signed numerous Rights and Responsibilities forms during the period in question thereby acknowledging the following pertinent responsibilities:

4) I understand if I am found (by court action or an administrative disqualification hearing) to have committed an act of intentional program violation, I will not receive SNAP benefits as follows: First Offense – one year; Second Offense – two years; Third Offense – permanently.

48) I also understand that if I give incorrect or false information or if I fail to report changes that I am required to report, I may be required to repay any benefits I receive and I may also be prosecuted for fraud. I also understand that any person who obtains or attempts to obtain benefits from DHHR by means of a willfully false statement or misrepresentation or by impersonation or any other fraudulent device can be charged with fraud.

49) I certify that all statements on this form have been read by me or read to me and that I understand them. I certify that all the information I have given is true and correct and I accept these responsibilities.

14) West Virginia Income Maintenance Manual §9.1.A.2.h states:

Intentional Program Violation (IPV)

Persons who have been found guilty of an IPV are disqualified as follows:

- 1<sup>st</sup> Offense: 1 year
- 2<sup>nd</sup> Offense: 2 years
- 3<sup>rd</sup> Offense: Permanent

**VIII. CONCLUSIONS OF LAW:**

- 1) The policy and regulations that govern SNAP state that a SNAP Violation has occurred when an individual intentionally makes a false or misleading statement, or misrepresented, concealed or withheld facts relating to the use, presentation, transfer, acquisition, receipt or possession of SNAP benefits.
- 2) The regulations state there must be clear and convincing evidence that demonstrates the Defendant intentionally committed an IPV.
- 3) The Defendant clearly was aware of her responsibility to report truthful and accurate information and the penalties involved for failing to do so. She read and signed both the applications and Rights and Responsibilities forms during the application process on June 14, 2007 and December 26, 2007, which clearly informed her of these responsibilities.
- 4) The evidence is also clear in that the Defendant intentionally reported false information about her household income in order to receive SNAP. She reported during the June 14, 2007 and December 26, 2007 SNAP application interviews that she had no earned income, when in fact she was employed at [REDACTED] and receiving regular pay checks from the company.
- 5) The Department was correct in its determination that the Defendant has committed an IPV by intentionally reporting false information about her household income.

**IX. DECISION:**

The Agency's proposal to apply a one (1) year Food Stamp disqualification penalty is **upheld**. The penalty will begin July 1, 2011.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 10<sup>th</sup> Day of June, 2011.**

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**Cheryl Henson  
State Hearing Officer**