



**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**

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

September 14, 2011

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 August 31, 2011 to determine whether 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.

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 Food Stamp Act, 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 Section 20.2 and Code of Federal Regulations-7 CFR Section 273.16)

Information submitted at the hearing reveals that you withheld information about your household income, resulting in an incorrect determination of your SNAP allotment.

It is the decision of the State Hearing Officer that you committed an Intentional Program Violation and a disqualification penalty will be applied.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Tammy Hollandsworth, Repayment Investigator, DHHR

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

IN RE: -----,

Defendant,

v.

ACTION NO.: 11-BOR-1422

**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 on August 31, 2011 in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources (WVDHHR).

All persons giving testimony were placed under oath.

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 an EBT card to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

III. PARTICIPANTS:

Tammy Hollandsworth, State Repayment Investigator, WVDHHR

Presiding at the hearing was Pamela L. Hinzman, State Hearing Officer and a member of the State Board of Review.

It should be noted that the Defendant was given proper written notice of the hearing date, however, she failed to appear.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Defendant committed an Intentional Program Violation and should be disqualified from participation in the Supplemental Nutrition Assistance Program for a period of one (1) year.

V. APPLICABLE POLICY:

7 CFR Section 273.16 USDA Code of Federal Regulations
WVDHHR Common Chapters Manual Section 740.11.D
West Virginia Income Maintenance Manual Sections 1.2.E, 10.3EE, 20.1 and 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Food Stamp Claim Determination form
- D-3 Food Stamp Calculation Sheets
- D-4 Overpayment information
- D-5 SNAP Issuance History- Disbursement
- D-6 Food Stamp Allotment Determination for January 2010 through July 31, 2010
- D-7 Case Members History
- D-8 Case Comments
- D-9 Combined Application and Review form with Rights and Responsibilities signed by Defendant
- D-10 Employment/wage history for -----
- D-11 Copy of IG-FM-1-7d appointment notice
- D-12 Notification of Intent to Disqualify dated June 17, 2011
- D-13 Waiver of Administrative Disqualification Hearing form
- D-14 West Virginia Income Maintenance Manual Section 1.2E
- D-15 West Virginia Income Maintenance Manual Sections 20.1 and 20.2
- D-16 West Virginia Income Maintenance Manual Section 20.6
- D-17 Code of Federal Regulations Section 273.16

VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from State Repayment Investigator Tammy Hollandsworth on July 7, 2011. The Repayment Investigator contends that the Defendant committed an Intentional Program Violation and recommends that the Defendant be disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, for a period of one (1) year.
- 2) A Hearing Summary submitted by the Department (D-1) indicates that the Defendant completed a SNAP application on January 4, 2010, signing a Combined Application and Review Form with associated Rights and Responsibilities (D-9). The Defendant's signature is located on Page 15 of the application and on Page 9 of the Rights and Responsibilities, attesting that she had provided complete and truthful information to the Department.

During the application process, the Defendant reported that four people resided in her household and stated that the only household income was \$994 in Social Security benefits.

- 3) The Repayment Investigator contended that the Defendant failed to report ----- had been employed since October 18, 2009 and was still working at the time of the SNAP application. ---employment information/income verification is verified in Exhibit D-10.
- 4) The Repayment Investigator testified that failure to report accurate household income resulted in a \$1,280 loss to the SNAP for the period of January 4, 2010 through July 31, 2010, as indicated on a Food Stamp Claim Determination form (D-2) and Food Stamp Calculation Sheets (D-3). SNAP Issuance History and Food Stamp Allotment Determination information was provided to verify the amount of benefits issued (D-5 and D-6).
- 5) West Virginia Income Maintenance Manual Section 1.2.E (D-14) states that the client's responsibility is to provide information about his/her circumstances so the worker is able to make a correct decision about his/her eligibility.
- 6) West Virginia Income Maintenance Manual Section 10.3.EE states that wages are counted as earned income for the SNAP.
- 7) West Virginia Income Maintenance Manual Section 20.2 (D-15):

When an AG (Assistance Group) has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation or Intentional Program Violation claim. The claim is the difference between the allotment the client received and the allotment he should have received.

8) West Virginia Income Maintenance Manual Section 20.2.C, 2 (D-15):

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

Once an IPV (Intentional Program Violation) is established a disqualification penalty is imposed on the AG (Assistance Group) members who committed the IPV...

The penalties are as follows: (Section 9.1A, 2, h) 1st Offense: 1 year (Disqualification).

- 9) WVDHHR Common Chapters Manual Section 740.11.D 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 Food Stamp Act, the Food Stamp Program Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt or possession of Food Stamp benefits.

VIII. CONCLUSIONS OF LAW:

- 1) Policy states that when an Assistance Group has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation or Intentional Program Violation claim. If it is determined that an Intentional Program Violation has been committed, an appropriate disqualification penalty is imposed.
- 2) The Defendant failed to report -----'s receipt of earned income during her SNAP application in January 2010, although -----had been employed since October 2009. This failure resulted in a SNAP over issuance of \$1,280 from January 2010 through July 2010. Therefore, the Department is correct in its proposal to impose an Intentional Program Violation.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's proposal to impose an Intentional Program Violation penalty. The penalty period will begin in November 2011.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 14th Day of September, 2011.

**Pamela L. Hinzman
State Hearing Officer**