



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Earl Ray Tomblin
Governor

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

September 19, 2011

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held September 7, 2011 for the purpose of determining whether or not an Intentional Program Violation occurred.

In arriving at a decision, the State Hearings 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 the Supplemental Nutrition Assistance Program (SNAP) is based on current policy and regulations. These regulations provide that an Intentional Program Violation consists of having intentionally made a false or misleading statement, or misrepresented, concealed or withheld facts; or committed any act that constitutes a violation of the Food Stamp Act, SNAP regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of SNAP benefits (WV Income Maintenance Manual § 20.2 C(2) and 7 CFR Section 273.16 (c)].

The information submitted at your hearing revealed that you made a false statement at your September 2010 SNAP review by reporting your household's only income as employment for Mark Glenn when in fact you had been working at Texas Steakhouse since June 2010.

It is the decision of the State Hearings Officer to **Uphold** the proposal of the Department to impose an Intentional Program Violation against you effective November 2011.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

cc: Chairman, Board of Review
Christine Allen, Repayment Investigator

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

IN RE: -----,

Defendant,

v.

ACTION NO.: 11-BOR-1536

**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 a fair hearing concluded on September 7, 2011 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.

II. PROGRAM PURPOSE:

The program entitled Supplemental Nutrition Assistance Program (SNAP) is administered by the West Virginia Department of Health and Human Resources.

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

III. PARTICIPANTS:

Christine Allen, Repayment Investigator

Presiding at the Hearing was Kristi Logan, State Hearing Officer and a member of the Board of Review.

This hearing was held by phone.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not Defendant committed an Intentional Program Violation.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 1.2 E, 9.1 A and 10.3 EE

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 SNAP Claim Determination
- D-3 SNAP Issuance History Screen (IQFS) from RAPIDS Computer System
- D-4 SNAP Allotment Determination Screen (EFAD) from RAPIDS Computer System
- D-5 SNAP Claim Calculation Sheet
- D-6 Case Members History Screen (AQCM) from RAPIDS Computer System
- D-7 Case Comments (CMCC) from RAPIDS Computer System
- D-8 Bureau of Employment Wage Details Screen from Data Exchange
- D-9 Employee Wage Data from Data Exchange
- D-10 Employment Verification from Texas Steakhouse
- D-11 Combined Application and Review Form dated September 23, 2010
- D-12 Rights and Responsibilities Form dated September 23, 2010
- D-13 Application for Emergency Assistance dated November 23, 2010
- D-14 Application for Emergency Low Income Energy Assistance Program dated November 18, 2010
- D-15 Notification of Overpayment dated June 29, 2011
- D-16 Notification of Intent to Disqualify dated June 29, 2011
- D-17 WV Income Maintenance Manual § 1.2 E
- D-18 WV Income Maintenance Manual § 10.3 DD
- D-19 WV Income Maintenance Manual § 20
- D-20 Code of Federal Regulations – 7 CFR §273.16

VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from Department of Health and Human Resources' Repayment Investigator, Christine Allen on July 21, 2011. The Department contends that Defendant has committed an Intentional Program Violation (IPV) and is recommending that she be disqualified from participation in SNAP for 12 months.

- 2) Defendant was notified of the hearing by letter mailed by this Hearing Officer on July 28, 2011. Defendant failed to appear for the hearing and did she provide good cause for her failure to do so. In accordance with 7 CFR §273.16(e)(4) and Common Chapters Manual §740.20, the hearing was held in Defendant's absence.
- 3) Defendant completed a SNAP review on September 23, 2010. She reported the household's income as earnings from employment from [REDACTED] for [REDACTED] SNAP benefits were approved based on the information provided (D-7 and D-11).
- 4) Defendant applied for Emergency Assistance on November 18, 2010. She reported the household's only income as [REDACTED] earnings from [REDACTED] (D-7 and D-13).

Defendant applied for the Emergency Low Income Energy Assistance Program on November 23, 2010. The only income reported on the application was earnings for [REDACTED] (D-7 and D-14).

- 5) The Department discovered Defendant was hired at [REDACTED] on June 2, 2010. The Department verified with the employer Defendant had regular earnings from there from June 24, 2010 through February 25, 2011 (D-8, D-9 and D-10).

The Department contends Defendant willfully misrepresented her household's income at her September 2010 SNAP review by failing to report her employment with [REDACTED] [REDACTED] Defendant had the opportunity to report her earnings not only at her SNAP review, but also during her subsequent applications for Emergency Assistance and Emergency Low Income Energy Assistance. The result of the misrepresentation was an overpayment of SNAP benefits of \$2780 for which she was not entitled to receive (D-2, D-3 and D-5).

- 6) WV Income Maintenance Manual § 1.2 E states:

The client's responsibility is to provide information about his circumstances so the Worker is able to make a correct decision about his eligibility. When the client is not able to provide the required verification, the Worker must assist him. The client must be instructed that his failure to fulfill his obligation may result in one or more of the following actions:

- Denial of application
- Closure of the active Assistance Group (AG)
- Removal of the individual from the AG
- Repayment of benefits
- Reduction in benefits

- 7) WV Income Maintenance Manual § 9.1 A(2)h states:

Persons who have been found guilty of an Intentional Program Violation (IPV) are disqualified [from SNAP] as follows:

- 1st offense: 1 year
- 2nd offense: 2 years
- 3rd offense: Permanent

8) WV Income Maintenance Manual § 10.3 EE states:

Employment: Counts as earned income for SNAP

9) Code of Federal Regulations- 7 CFR § 273.16 states:

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 [SNAP] Act, the Food Stamp Program Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt or possession of Food Stamp coupons.

VIII. CONCLUSIONS OF LAW:

- 1) In order for an Intentional Program Violation to be established, it must be shown by clear and convincing evidence that the Defendant intentionally made a false or misleading statement or withheld or concealed facts from the Department.
- 2) Defendant made a false statement at her September 2010 SNAP review by reporting her household's only income as employment for [REDACTED] Defendant had been receiving regular paychecks from [REDACTED] since June 2010, prior to the SNAP review.
- 3) The result of Defendant's false statement was an overpayment in SNAP benefits for which her household was not entitled to receive.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to impose an Intentional Program Violation against Defendant effective November 2011.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 19th day of September 2011.

**Kristi Logan
State Hearing Officer**