



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
2699 Park Avenue, Suite 100
Huntington, WV 25704

Earl Ray Tomblin
Governor

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

November 4, 2011

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on the SNAP Administrative Disqualification Hearing held October 19, 2011, for the purpose of determining whether an Intentional Program Violation (IPV) was committed by you.

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, formerly known as the Food Stamp Program, 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 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 coupons. 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, Chapter 20.2; Code of Federal Regulations 7 CFR §273.16)

Information submitted at the hearing reveals that you intentionally concealed facts about your household composition and income in order to receive SNAP benefits for which you were not entitled.

It is the decision of the State Hearing Officer that an Intentional Program Violation was committed by you and a disqualification penalty of one (1) year will be applied. Your disqualification from SNAP will begin effective December 1, 2011.

Sincerely,

Todd Thornton
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Brian Shreve, Department Representative

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

IN RE: -----,

Defendant,

v.

ACTION NO.: 11-BOR-1619

**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 concluded on November 4, 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. This hearing was convened on October 19, 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:

Brian Shreve, Department representative

Presiding at the Hearing was Todd Thornton, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Defendant committed an Intentional Program Violation (IPV) and should be disqualified for a specified period from participation in SNAP.

V. APPLICABLE POLICY:

Code of Federal Regulations, 7 CFR §273.16
West Virginia Income Maintenance Manual, Chapter 20.2; Chapter 9.1.A.2.h

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Code of Federal Regulations, 7 CFR §273.16
- D-2 Benefit recovery referral screen prints
- D-3 Food Stamp Claim Determination form, calculations and supporting documentation
- D-4 Case comments screen print
- D-5 Income verification
- D-6 Statement from -----dated September 24, 2010
- D-7 Case household information screen prints
- D-8 Combined Application and Review Form (CAF) dated July 9, 2009; Rights and Responsibilities form dated July 9, 2009
- D-9 Case comments screen print
- D-10 Mail-in SNAP review form, signed December 10, 2009
- D-11 Case comments screen print
- D-12 Combined Application and Review Form (CAF) dated June 24, 2010; Rights and Responsibilities form dated June 24, 2010
- D-13 Case comments screen print
- D-14 Department of Motor Vehicles' Driver history inquiry screen print
- D-15 West Virginia Income Maintenance Manual, Chapter 1.2.E
- D-16 West Virginia Income Maintenance Manual, Chapter 20.2
- D-17 West Virginia Income Maintenance Manual, Chapter 20.6
- D-18 Interview appointment letter dated June 30, 2011; Notification of Intent to Disqualify; Waiver of Administrative Disqualification Hearing

VII. FINDINGS OF FACT:

- 1) The Department is alleging an act of Intentional Program Violation, or IPV, in the Defendant's case, due to concealing facts regarding her household composition and income – specifically the presence and earned income of the father of her children – affecting the Defendant's eligibility for SNAP, formerly known as the Food Stamp Program.

- 2) The hearing convened as scheduled at 11:45 a.m., and as of 12:00 p.m., the Defendant failed to appear. As set forth in regulations (7 CFR §273.16(e)(4)), and State Policy (West Virginia Department of Health and Human Resources Common Chapters Manual, 740.20), the hearing was conducted without the Defendant in attendance.

- 3) The Code of Federal Regulations, 7 CFR §273.16(c), defines an IPV as:
 - (c) Definition of intentional Program violation. 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, the Food Stamp Program Regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system (access device).

- 4) The Department presented application or review documents and Rights and Responsibilities forms or statements (Exhibits D-8, D-10, and D-12) from July 9, 2009, December 10, 2009, and June 24, 2010 applications or reviews affecting SNAP eligibility. These forms list the Defendant and her child (Exhibits D-8 and D-10) or the Defendant and both of her children (Exhibit D-12) as present in the household. The documents list either no source of household income (Exhibit D-8) or the sole source of household income as the Defendant's earnings from employment (Exhibits D-10 and D-12). The father of the Defendant's children – ----- is not listed in the household on any of the documents, nor his income; on two of the documents (Exhibits D-8 and D-12) ---- -is explicitly listed as an absent parent.

- 5) The Department presented a statement from the Defendant's grandmother (Exhibit D-6), dated September 24, 2010, which states that -----was employed at [REDACTED] living with the Defendant at that time, and had been living with the Defendant "for about one year."

- 6) The Department presented income verification (Exhibit D-5), via an income verification service, for -----employment with Taco Bell. This verification lists continuous pay dates between December, 2009 and August, 2010. The verification further provides ----
-home address, which is identical to the address on the Defendant's application or review documents (Exhibits D-8, D-10, and D-12), Department address records (Exhibit D-7), and the address the Defendant provided to the Department of Motor Vehicles (Exhibit D-14): -----, -----.

- 7) In addition to the income verification in Exhibit D-5, the Department included a screen print of -----quarterly wages (Exhibit D-3), which is the basis of the income recalculations used for the months of July, 2009 through November, 2009 in determining the SNAP over issuance amounts.

- 8) Brian Shreve, representative for the Department, testified that he calculated three separate SNAP over issuance claims totaling \$3781.00 resulting from earned income that should have been included in the calculation of the Defendant's SNAP benefits between July 2009 and October 2010. Mr. Shreve additionally confirmed that the Defendant has no prior IPV offenses, and that the proposed IPV would be a first offense.

- 9) The West Virginia Income Maintenance Manual, Chapter 9.1.A.2.h, states:
 - h. Intentional Program Violation (IPV)

Persons who have been found guilty of an IPV are disqualified as follows:
 - 1st offense: 1 year
 - 2nd offense: 2 years
 - 3rd offense: Permanent

VIII. CONCLUSIONS OF LAW:

- 1) The Department clearly established that the Defendant withheld information regarding her household composition and income. Verification showed that the father of the Defendant's children – ----- was employed and living in her home, and his presence and income were not counted in the Defendant's SNAP calculations. The Department indicated that the error resulting from this incorrect information from the Defendant resulted in a series of SNAP over issuance claims totaling \$3781.00.

- 2) The Department also clearly established the intent of the Defendant to provide misleading information to receive SNAP benefits for which she would not have otherwise been entitled. The Defendant explicitly reported -----as absent from her home on two separate review or application documents, and failed to list him on a third document. The Defendant reported her own income source, but did not report -----and his earnings from employment. The Department was correct in its determination that an IPV was committed by the Defendant.

IX. DECISION:

Intentionally withholding, concealing, or providing misleading facts to secure SNAP benefits constitutes a clear violation of the regulations. Based on the evidence presented, I find the violation intentional.

The Agency's proposal to apply a SNAP disqualification is **upheld**. The Defendant will be disqualified from participation in SNAP for a period of twelve (12) months to begin effective December 1, 2011.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this _____ Day of November, 2011.

Todd Thornton
State Hearing Officer