



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
203 E. Third Avenue
Williamson, WV 25661

Earl Ray Tomblin
Governor

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

April 29, 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 March 3, 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 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.

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 Section 20.2,C,2 and 7 CFR Section 273.16 (c)]

Information submitted at the hearing reveals that you intentionally provided false and misleading information about your household composition 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 June 1, 2011.

Sincerely,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review
Brian Shreve, Repayment Investigator

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

-----,

Defendant,

v.

Action Number: 11-BOR-414

**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 April 29, 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. The hearing was convened on March 3, 2011, at the [REDACTED] County Office of the WV Department of Health and Human Resources (DHHR) in [REDACTED] WV.

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, Repayment Investigator, Department's Representative

Presiding at the Hearing was Stephen M. Baisden, State Hearing Officer and a member of the State Board of Review.

The Hearing Examiner placed participants under oath at the beginning of the hearing.

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:

7 CFR §273.16 Code of Federal Regulations
Common Chapters Manual, Chapter 700
West Virginia Income Maintenance Manual: Chapter 1.2, Chapter 20.2; Chapter 20.6

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- M-1 Copy of the Code of Federal Regulations (CFR) §273.16 showing disqualifications for Intentional Program Violations.
- M-2 BVRF Screen print from RAPIDS System showing referral for recoupment.
- M-3 ES-FS-5, SNAP Claim Determination sheet.
- M-4 CMCC Screen Print from RAPIDS showing case comments made on September 23, 2010.
- M-5 Copy of written statement taken from Defendant's mother-in-law by Front-End Fraud Unit (FEFU) worker, dated September 15, 2010.
- M-6 Copy of print-out from clientservice@theworknumber.com, an on-line employment verification service, dated September 20, 2010.
- M-7 Copy of Combined Application and Rights and Responsibilities forms dated and signed by Defendant on April 23, 2009.
- M-8 CMCC Screen Print from RAPIDS showing case comments made on April 23, 2009.
- M-9 Copy of Combined Application and Rights and Responsibilities forms dated and signed by Defendant on September 17, 2009.
- M-10 CMCC Screen Print from RAPIDS showing case comments made on September 17, 2009.
- M-11 Copy of Combined Application and Rights and Responsibilities forms dated and signed by Defendant on July 28, 2010.
- M-12 CMCC Screen Print from RAPIDS System showing case comments made on July 28, 2010.
- M-13 Copy of Income Maintenance Manual Chapter 1.2.E showing customer responsibility for providing accurate information.
- M-14 Copy of Income Maintenance Manual Chapter 20.2 showing SNAP benefit claims and repayment procedures.
- M-15 Copy of Income Maintenance Manual Chapter 20.6.A showing definitions of Welfare Fraud.
- M-16 Copy of IFM-BR-44 Waiver of Administrative Disqualification Hearing form and IFM-BR-44a Notice of Intent to Disqualify form, and appointment letter for pre-hearing conference on November 24, 2010, sent to Defendant on November 16, 2010.

VII. FINDINGS OF FACT:

- 1) The Department is alleging an act of Intentional Program Violation, or IPV, in the Defendant's SNAP case because she allegedly failed to report that her husband was living in her home and that he received earned income, from April 2009 to March 2010, and July 2010 to August 2010.

- 2) Defendant was mailed notice of the Administrative Disqualification Hearing on February 1, 2011, by first class mail. The notice was sent to -----, [REDACTED] WV 25053. This is the address at which Defendant receives her SNAP benefits.
- 3) The hearing was scheduled for 11:00 a.m. on March 3, 2011, and as of 11:15 a.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 convened at 11:15 a.m., and was conducted without the Defendant in attendance.
- 4) On November 1, 2010, a worker in the Front-End Fraud Unit (FEFU) submitted a benefit recovery referral to the Investigation and Fraud Management (IFM) Unit of the WV DHHR. (Exhibit M-2.) The referral alleged that Defendant's spouse had been living in the home even though he was considered to be an absent parent. The FEFU worker provided to the IFM a copy of a written statement she obtained from Defendant's mother-in-law on September 15, 2010. (Exhibit M-5.) The statement reads as follows:

[Defendant's spouse] is my son. He and [Defendant] live next door to me in the grey trailer. [Defendant's two children] live with them. They are their children. I have lived here 29 ½ years. [Defendant's spouse and Defendant] have lived there at least 5 years.

The FEFU worker also submitted to IFM a copy of a print-out dated September 20, 2011, from clientservice@theworknumber.com, an internet-based employment and earnings verification service. (Exhibit M-6.) The print-out indicated that Defendant's spouse worked at a home improvement and repair store, [REDACTED]s. It indicated that he had worked there since November, 1999, and was working there full-time for the months of April 2009 through August 2010. It also listed the home mailing address for Defendant's spouse, which was identical to Defendant's address.

- 5) On April 23, 2009, Defendant came into the WV Department of Health and Human Resources, [REDACTED] County office in [REDACTED] WV, and completed an application for SNAP benefits. She reported that her household consisted of herself and her son, and that the only income in Defendant's household at that time was child support. At the conclusion of the application interview, Defendant signed and dated a DFA-RFA-1, a Common Application Form (CAF) which contained information she had given the worker during the interview and a DFA-RR-1, a Rights and Responsibilities form. (Exhibit M-7.) The CAF signature page states,

I understand my responsibility to provide complete and truthful information. I have reviewed or had read to me the information contained in this automated portion of the application form and I understand the information. I understand that it is a criminal violation of federal and state law to provide false or misleading information for the purpose of receiving benefits to which I am not by law entitled. Under penalty of perjury, I certify that the statements are true and correct.

The DFA-RR-1, Rights and Responsibilities form is a list of applicants' rights and responsibilities for each program for which an applicant applies. The applicant signifies

that he or she is aware of each right or responsibility by checking “Yes” or “No” at each item. Under the SNAP Program section of the form, item #4 states,

I understand if I am found (by court action or 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. In addition, I will have to repay any benefits received for which I was not eligible.

Defendant has marked “Yes” at this item.

- 6) On September 17, 2009, Defendant returned to the [REDACTED] County office of the WV DHHR for a benefits review. She reported that she and her son were the only members of her household and that the only income in the household was child support. She signed another Combined Application Form and Rights and Responsibilities document (Exhibit M-9) indicating that she had provided correct information and was aware of the penalties for not doing so.
- 7) On July 28, 2010, Defendant returned to the [REDACTED] County office of the WV DHHR for another SNAP application because her SNAP benefits had been closed. She reported that she, her son and her newborn daughter were the only members of her household and that there was no income in her household. She signed another Combined Application Form and Rights and Responsibilities document (Exhibit M-11) indicating that she had provided correct information and was aware of the penalties for not doing so.
- 8) The Code of Federal Regulations, 7 CFR §273.16(c) (Exhibit M-1), defines an Intentional Program Violation (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).

- 9) The West Virginia Income Maintenance Manual, Chapter 1.2.E (Exhibit M-13), 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 . . . The client must be instructed that his failure to fulfill his obligation may result in one or more of the following actions: denial of the application; closure of the active AG [assistance group]; removal of the individual from the AG; repayment of benefits; reduction in benefits.

10) 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

11) The West Virginia Income Maintenance Manual, Chapter 20.2 (Exhibit M-14), states:

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

12) The West Virginia Income Maintenance Manual, Chapter 20.6.A (Exhibit M-15), states:

A willfully false statement is one that is deliberately given, with the intent that it be accepted as true, and with the knowledge that it is false . . . [I]t is not essential that an affirmative representation be made. Misrepresentation may also be the suppression of what is true, as well as in the representation of what is false.

VIII. CONCLUSIONS OF LAW:

The Department has established that the Defendant intentionally failed to report that her husband was living in her home, and that he received earned income, during SNAP applications on April 23, 2009 and July 28, 2010, and a SNAP benefits review on September 17, 2009. She signed Common Application Forms to the effect that the only individuals in her household were herself and her children, and she signed Rights and Responsibilities documents indicating that she was aware of her responsibility to provide complete and accurate information and of the penalties for not doing so.

IX. DECISION:

Withholding information concerning household composition and earned income during a SNAP application is a clear violation of the regulations. Based on the evidence presented, I find the violations 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 June 1, 2011.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 29th Day of April, 2011.

**Stephen M. Baisden
State Hearing Officer**