



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 4, 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
Jennifer Butcher, Repayment Investigator

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

-----,

Defendant,

v.

Action Number: 11-BOR-438

**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 Sarah Broughton. 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 via videoconference on March 4, 2011, with Department's representative appearing at the [REDACTED] County Office of the WV Department of Health and Human Resources (DHHR) in [REDACTED] WV, and the Hearings Officer appearing at the [REDACTED] County Office of the 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:

Jennifer Butcher, 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 participant 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 2.2.B, Chapter 9.1, Chapter 20.2, Chapter 20.6.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- M-1 BVRF Screen print from RAPIDS System showing referral for recoupment.
- M-2 Copy of Income Maintenance Manual Chapter 1.2.E showing customer responsibility for providing accurate information.
- M-3 Copy of the Code of Federal Regulations (CFR) §273.16 showing disqualifications for Intentional Program Violations.
- M-4 Copy of WV CHIP application, signed by Defendant on May 9, 2010.
- M-5 SNAP telephone review form dated May 24, 2010, signed by Defendant on May 26, 2010.
- M-6 School Clothing Allowance application form, signed by Defendant on July 8, 2010.
- M-7 SNAP Change Reporting Form, signed and dated by Defendant on August 2, 2010.
- M-8 Low-Income Energy Assistance Program application, signed and dated by Defendant on August 10, 2010.
- M-9 Copy of Income Maintenance Manual Chapter 2.2.B showing SNAP case change reporting requirements.
- M-10 Copy of Income Maintenance Manual Chapter 2.2.B.1 showing SNAP case change reporting requirements for "Limited Reporting" households.
- M-11 Copy of Income Maintenance Manual Chapter 2.2.B.4 indicating SNAP case change reporting must be done in a timely manner.
- M-12 Print-outs from the WV Department of Motor Vehicles.
- M-13 Copy of written statement taken from Defendant's neighbor by Front-End Fraud Unit (FEFU) worker, dated January 4, 2011.
- M-14 Income Verification Request from the Investigations and Fraud Management (IFM) unit to employer of Defendant's spouse, and an attached copy of a print-out from clientservice@theworknumber.com, an on-line employment verification service, dated November 15, 2010.
- M-15 ES-FS-5, SNAP Claim Determination sheet.
- M-16 Copy of Income Maintenance Manual Chapter 20.6.A showing definitions of Welfare Fraud.
- M-17 Copy of IFM-BR-44 Waiver of Administrative Disqualification Hearing form and IFM-BR-44a Notice of Intent to Disqualify form, sent to Defendant on November 15, 2010.
- M-18 Copy of Income Maintenance Manual Chapter 20.2.C.2, defining SNAP Intentional Program Violation (IPV) claims and penalties.

- M-19 Copy of Income Maintenance Manual Chapter 20.2.E, showing SNAP claim collection and repayment procedures.
- M-20 Copy of Income Maintenance Manual Chapter 20.2.F.2a, showing SNAP withholding amounts to recoup overpayments.

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 July 2010 to November 2010.
- 2) Defendant was mailed notice of the Administrative Disqualification Hearing on February 1, 2011, by first class mail. The notice was sent to -----, -----. This is the address at which Defendant receives her SNAP benefits.
- 3) The hearing was scheduled for 10:00 a.m. on March 4, 2011, and as of 10:15 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 10:15 a.m., and was conducted without the Defendant in attendance.
- 4) On September 8, 2010, the Investigation and Fraud Management (IFM) Unit of the WV DHHR received a benefit recovery referral alleging that Defendant’s spouse had been living in the home even though she had reported he was not in the home. (Exhibit M-1.)
- 5) On May 9, 2010, Defendant submitted a WV CHIP application to the [REDACTED] County office of the WV DHHR. (Exhibit M-4.) On it, she reported that the only people in the home were herself and her son, and the only income in her household was \$500 per month “from my mother.”
- 6) On May 9, 2010, Defendant submitted a print-out from a telephone SNAP review which listed the information she gave to an eligibility worker during the review and requires the recipient to affix a signature and date after confirming the listed information. (Exhibit M-5.) The print-out lists two household members, Defendant and her son, and lists the only income received in the household as \$500 per month from Defendant’s mother, “to help with utilities.” The last section of the print-out lists the rights and responsibilities of SNAP recipients. It states in part:

Read each statement carefully and sign the last page.

...

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.

...

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 information I have given is true and correct and I accept these responsibilities.

Defendant signed and dated this form on May 26, 2010.

- 7) On July 12, 2010, Defendant submitted a School Clothing Allowance (SCA) program application to the [REDACTED] County office of the WV DHHR. (Exhibit M-6.) On it, she reported that the only people in the home were herself and her son, and the only income in her household was \$800 per month "from family members."
- 8) Department's representative, the IFM worker who conducted this investigation, submitted into evidence print-outs from the Department of Motor Vehicles dated September 8, 2010. (Exhibit M-12.) These print-outs indicate that Defendant and her spouse own two vehicles jointly, and the owner address for these vehicles are identical to Defendant's mailing address. An additional vehicle is listed in the name of Defendant's spouse only, and the owner address for this vehicle also matches Defendant's address.
- 9) Department's representative submitted a copy of a written statement she obtained from one of Defendant's neighbors on January 4, 2011. (Exhibit M-13.) The statement reads as follows:

I have lived here about 16 years and I do know [Defendant and spouse]. They have lived next door for about 10 years. They have a son and she worked at [REDACTED]s and ---- worked at the mines. Other than that I do not know anything else about them they are very private.

Department's representative testified that after the neighbor wrote this statement, she told the representative that as far as she knew, Defendant's spouse has never been gone from the home.

- 10) Department's representative submitted a copy of a letter to Defendant's spouse's place of employment asking the employer to verify Defendant's income and home mailing address. (Exhibit M-14.) The employer responded by returning the form to the IFM and attaching a print-out dated November 15, 2010, from clientservice@theworknumber.com, an internet-based employment and earnings verification service. This document is also attached to Exhibit M-14. The print-out indicates that Defendant's spouse worked at a mining company in [REDACTED] WV, and that he worked there full-time throughout the alleged overpayment period. It also lists the home mailing address for Defendant's spouse, which is identical to Defendant's address.
- 11) The Code of Federal Regulations, 7 CFR §273.16(c) (Exhibit M-3), 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).

- 12) The West Virginia Income Maintenance Manual, Chapter 1.2.E (Exhibit M-2), 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.

- 13) 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

- 14) The West Virginia Income Maintenance Manual, Chapter 20.2 (Exhibit M-18), 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.

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.

- 15) The West Virginia Income Maintenance Manual, Chapter 20.6.A 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 the period of July 2010 to November 2010. She signed a CHIP mail-in review form, a SNAP telephone review form, and a School Clothing Allowance application form to the effect that the only individuals in her household were herself and her child, and she signed 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 review or other program 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**