



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

July 27, 2011

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on the SNAP Administrative Disqualification Hearing held July 21, 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 September 1, 2011.

Sincerely,

Todd Thornton
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Rebecca Pancake, Department Representative

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

IN RE: -----,

Defendant,

v.

ACTION NO.: 11-BOR-809

**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 July 27, 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 July 21, 2011.

II. PROGRAM PURPOSE:

The purpose of SNAP, formerly known as the Food Stamp Program, 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:

Rebecca Pancake, 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 Case Comments screen print
- D-2 Partial Combined Application and Review Form, dated September 25, 2008; Rights and Responsibilities form, dated September 25, 2008
- D-3 Partial Combined Application and Review Form, dated March 31, 2009; Rights and Responsibilities form, dated March 31, 2009
- D-4 Landlord verification
- D-5 Landlord verification
- D-6 Unemployment verification
- D-7 Department of Motor Vehicles verification
- D-8 Employment verification
- D-9 Employment verification
- D-10 West Virginia Income Maintenance Manual, Chapter 20.2
- D-11 Food Stamp Claim Determination form
- D-12 Waiver of Administrative Disqualification Hearing form
- D-13 Notification of Intent to Disqualify; Waiver of Administrative Disqualification Hearing form
- D-14 Hearing/Grievance Request Notification; Notification of Intent to Disqualify; Request for an Administrative Disqualification Hearing
- D-15 Code of Federal Regulations, 7 CFR §273.16

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 income of ----- affecting the Defendant's eligibility for SNAP, formerly known as the Food Stamp Program.
- 2) The hearing convened as scheduled at 3:00 p.m., and as of 3:15 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 partial applications and rights and responsibilities forms (Exhibits D-2 and D-3) from September 25, 2008 and March 31, 2009 SNAP review interviews. These forms list the Defendant and her children as present in the household. The forms do not list ----- in the household.
- 5) Rebecca Pancake, the Department representative, clarified the -----in question. Ms. Pancake testified that ----- is a child – the son of ----- the child – is listed on the Defendant’s SNAP applications as present in the household, but ----- the adult – is not. Further documentation (Exhibits D-6 and D-7) lists the adult as -----.
- 6) The Department presented verification (Exhibits D-4, D-6, D-7, and D-9) that -----had the same address that the Defendant listed on her applications. Exhibit D-4 documents that the Defendant and -----were residing together at this address from February 2008 through June 2009. Exhibit D-5 documents that the Defendant and -----were residing together at another address after June 2009.
- 7) The Department presented income verification (Exhibits D-6, D-8, and D-9) for -----in 2008 and 2009. Because -----was not included in the Defendant’s household, this income was not counted in the calculation of the Defendant’s SNAP benefits.
- 8) The Department presented documentation (Exhibit D-11) showing the calculation of the SNAP over issuance claim resulting from incorrect household composition and income. A claim was determined between January 2008 and July 2009 totaling \$15,494.00. The Department 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. Household composition listings from two application documents show that ----- was not reported in the Defendant's household, and further documentation from the Department places this individual in the household with income. The Department additionally showed that the error resulting from this incorrect information from the Defendant resulted in a SNAP over issuance claim totaling \$15,494.00.
- 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 reported herself and her children in her household, but did not report an individual whose presence and income would have caused a significant reduction in her eligibility for SNAP benefits. 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 September 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 July, 2011.

**Todd Thornton
State Hearing Officer**