



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

Joe Manchin III
Governor

Patsy A. Hardy, FACHE, MSN, MBA
Cabinet Secretary

August 5, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 9, 2010 for the purpose of determining whether or not an Intentional Program Violation occurred.

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 the Supplemental Nutrition Assistance Program (SNAP) is based on current policy and regulations. These regulations provide that an 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 (Code of Federal Regulations - 7 CFR § 273.16).

The information submitted at your hearing revealed that you intentionally withheld information regarding -----'s income as a child care provider at your July 2009 SNAP review.

It is the decision of the State Hearing Officer to **Uphold** the proposal of the Department to impose an Intentional Program Violation against you effective September 2010.

Sincerely,

Kristi Logan
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Tammy Hollandsworth, Repayment Investigator

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

-----,

Defendant,

v.

Action Number: 10-BOR-1392

**West Virginia Department of
Health and Human Resources,**

Movants.

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 9, 2010 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 & 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:

-----, Defendant

-----, Witness for Defendant

Tammy Hollandsworth, 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 videoconference.

IV. QUESTION TO BE DECIDED:

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

V. APPLICABLE POLICY:

Code of Federal Regulations- 7 CFR § 273.16
WV Income Maintenance Manual § 1.2 E and 9.1 A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 SNAP Claim Determination Form
- D-3 SNAP Claim Calculation Sheet
- D-4 SNAP Issuance History Screen (IQFS) from RAPIDS Computer System
- D-5 SNAP Allotment Determination Screen (EFAD) from RAPIDS Computer System
- D-6 Case Members History Screen (AQCM) from RAPIDS Computer System
- D-7 Case Comments (CMCC) from RAPIDS Computer System
- D-8 Provider Payment History from FACTS Computer System
- D-9 Combined Application Form, Rights and Responsibilities Form and Screening Form dated July 9, 2009
- D-10 Notification of Intent to Disqualify dated May 21, 2010
- D-11 Waiver of Administrative Disqualification Hearing
- D-12 Referral/Claim Comments (BVCC) from RAPIDS Computer System
- D-13 WV Income Maintenance Manual § 1.2 E
- D-14 WV Income Maintenance Manual § 20.1
- D-15 WV Income Maintenance Manual § 20.6
- D-16 Code of Federal Regulations- 7 CFR § 273.16

Defendant's Exhibits:

None

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, Tammy Hollandsworth, on June 4, 2010. 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 completed a SNAP review on July 9, 2009. Defendant reported to her caseworker that her household's only income was her Social Security and SSI. SNAP benefits were approved based on the information provided (D-7 and D-9).

- 3) The Department discovered via data exchange that Defendant's cohabiter, ----, had been working as a child care provider since April 2009. ----received his first pay as a child care provider in May 2009 of \$663. ----continued to have regular income as a provider through October 2009 (D-8).

The Department contends Defendant intentionally misrepresented her household's income by failing to report the onset of ----earned income at her SNAP review in July 2009. Defendant indicated on the screening form dated July 9, 2009 that no one in her household was employed (D-9). The result of this misrepresentation was an overpayment of SNAP benefits of \$1267 issued from August 2009 through October 2009 (D-2 and D-3).

- 4) Defendant testified that she did not think she had to report any household changes unless her household's income exceeded a certain limit. Since their income did not exceed the SNAP income limit, she did not report ----income. Defendant denied intentionally withholding information from the Department.
- 5) ---- testified that he did not remember having any children to care for in July 2009. He stated he had been keeping three (3) children and last had all three (3) in December 2009. ----stated his boss [the Child Care Regulatory Specialist] worked in [REDACTED] County and thought his child care income would automatically be added to their case.

- 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) 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's cohabiter was approved as a child care provider in April 2009 and received regular income from this source through October 2009. Defendant indicated on the July 9, 2009 screening form that no one in her household was working. Defendant clearly misrepresented her household's income by withholding information regarding ----- income as a child care provider. As a result, Defendant's household was issued SNAP benefits for which she was not eligible for.

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 September 2010.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 5th day of August 2010.

**Kristi Logan
State Hearing Officer
Member, Board of Review**