



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 Washington Street, West
Charleston, WV 25313

Joe Manchin III
Governor

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

September 28, 2010

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 September 22, 2010 for the purpose of determining whether or not you committed an Intentional Program Violation (IPV).

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 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 §20.2 and Code of Federal Regulations - 7 CFR §273.16).

The information submitted at the hearing showed that you intentionally withheld information about your household's composition in order to receive SNAP for which you were not entitled.

It is the decision of the State Hearing Officer to **uphold** the Agency's proposal to apply a one (1) year SNAP disqualification penalty against you based on an Intentional Program Violation. Your penalty begins November 1, 2010.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review / Jennifer Butcher, Kanawha DHHR

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

-----,

Defendant

v.

Action Number: 10-BOR-1739

**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 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 September 22, 2010.

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, State Repayment Investigator, Department Representative

Presiding at the Hearing was Cheryl Henson, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Defendant committed an intentional program violation and should be disqualified for one year from participation in SNAP.

V. APPLICABLE POLICY:

7 CFR § 273.16 USDA Code of Federal Regulations
Common Chapters Manual Chapter 700, Appendix A
West Virginia (WV) Income Maintenance Manual §1.2, 9.1.A.2.h and 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Benefit Recovery Referral Screen from RAPIDS dated September 15, 2010
- D-2 WV Income Maintenance Manual §1.2.E
- D-3 Code of Federal Regulations §7 CFR 273.16
- D-4 Combined Application Form (CAF) dated March 4, 2009 and supporting documents
- D-5 Low Income Energy Assistance Program (LIEAP) application and supporting documents
- D-6 School Clothing Allowance (SCA) application dated July 30, 2009
- D-7 CAF dated September 15, 2009 and supporting documents
- D-8 Emergency LIEAP application dated February 12, 2010 and supporting documents
- D-9 Case Comments from RAPIDS computer system
- D-10 CAF dated February 22, 2010 and supporting documents
- D-11 Computer screen prints from RAPIDS computer system
- D-12 Sworn written statement dated February 23, 2010
- D-13 WV Income Maintenance Manual Section 2.2.B
- D-14 WV Income Maintenance Manual Section 2.2.B.4
- D-15 Food Stamp Claim Determination forms and supporting documents
- D-16 WV Income Maintenance Manual Section 20.6.A
- D-17 Notification letters sent to the Defendant dated July 22, 2010
- D-18 WV Income Maintenance Manual Section 20.2.C.2
- D-19 WV Income Maintenance Manual Section 20.2
- D-20 WV Income Maintenance Manual Section 20.2.F.2.a

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing (ADH) was received by the Board of Review from the Department of Health and Human Resources (Department) on August 11,

2010. The Department contends that the Defendant has committed an Intentional Program Violation (IPV) and made a fraudulent statement or misrepresentation regarding her household composition in order to receive SNAP (formerly known as the Food Stamp Program), and is recommending that she be disqualified from participation in SNAP for a period of one (1) year.

- 2) Notification of the September 22, 2010 hearing was mailed to the Defendant on or about August 13, 2010 via first class mail delivery, as the Defendant has a validated address with the Department and is actively receiving benefits at that address.
- 3) The hearing was convened as scheduled at 11:00 a.m., and as of 11:24 a.m. the Defendant failed to appear or notify the Board of Review of any conflict preventing her from appearing. As set forth in the Code of Federal Regulations found at §7 CFR 273.16 (e) (4), and State Policy (West Virginia Department of Health and Human Resources Common Chapters Manual, Chapter 740.20), the hearing was conducted without the Defendant in attendance.
- 4) On or about July 22, 2010 the Department sent the Defendant a Notification of Intent to Disqualify (D-17) form, indicating that the Department had reason to believe she intentionally violated a food stamp rule. The form also included the following:

Based on the evidence developed through our investigation, the agency believes that ---- [sic] [REDACTED] intentionally violated the food stamp program by: failing to report ----fsth[r] [sic] of two of the children has been in the home and failed to report his SS income. The evidence to prove this allegation consists of statements and social security verification.

- 5) The Department presented evidence to show that the Defendant completed a SNAP application (D-4) on March 4, 2009 at which time she reported three (3) persons, herself and her two children, living in the household at [REDACTED]. She did not report that ----lived in her household. She reported only unearned income from social security in the amount of five hundred seventy six dollars (\$576.00) received on behalf of her two children. She reported at that time that she is responsible for paying rent and utilities in an amount that exceeded her household income. She signed the Rights and Responsibilities form indicating she understood her responsibility to report accurate and truthful information and the penalties for failure to do so.
- 6) The evidence shows the Defendant completed an application (D-5) for the Low Income Energy Assistance Program (LIEAP) on March 4, 2009 based on an overdue electric bill. She did not list ----as a household member at this time. The bill was listed in ----name at the same address of the Defendant. She also provided a statement from ----in which he stated that the Defendant pays the power bill. She signed the Statement of Liability section indicating she understood the penalties for providing false or fraudulent information. She certified that all information provided was true and correct.
- 7) The Defendant completed a West Virginia School Clothing Allowance (D-6) application on July 30, 2009 at which time she again did not list ----as living in her household. She completed a SNAP review (D-7) interview on September 15, 2009 and again did not report ----as a household member. She completed an application for Emergency LIEAP on February 12, 2010 (D-8) again not listing ----as a household member. The electric bill reported at this time

listed her address as [REDACTED]. The Department's records showed that the Defendant lived at [REDACTED] West Virginia. Case comments documenting the workers notes on February 22, 2010 (D-9) show that the Defendant explained that she had moved. She signed the application stating all information provided was true and correct.

- 8) The Defendant completed a SNAP application (D-10) on February 22, 2010 and reported that she lived alone with her three children. She listed that the only income was the social security income for two of her children, which again exceeded the amount of her reported expenses. She signed the Rights and Responsibilities form again indicating she understood her responsibility to report accurate and truthful information and the penalties for failure to do so.
- 9) The Department presented evidence (D-11, 11a) to show that the Defendant was listed in the Department's records as living at [REDACTED] West Virginia from March 4, 2009 through February 22, 2010 when she reported moving to the address at [REDACTED].
- 10) The Department verified (D-11a) with its records cross-match information from the Social Security Administration that ----receives the social security benefits for the children and himself at [REDACTED].
- 11) The Department verified (D-11b) that both the Defendant and ----renewed their driver's licenses on February 24, 2010 and listed that they both live at [REDACTED].
- 12) The Department obtained a sworn written statement (D-12) from an individual who lives at [REDACTED]. The statement is dated February 23, 2010 and provides that the individual has lived at that address since 1973 and that ----and the Defendant live in a trailer behind his home. The statement also provides that he believes they have lived there for one month, and that before that they lived up the hill in his father's house. The individual also provided that he knows they live together but is unaware if they are married.
- 13) West Virginia Income Maintenance Manual §1.2 (E) states that it is the client's responsibility to provide information about his circumstances so the worker is able to make a correct decision about his eligibility.
- 14) West Virginia Income Maintenance Manual § 20.2 (C) (2) states in pertinent part:

IPV's include making false or misleading statement, 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.

Once an IPV is established, a disqualification penalty is imposed on the AG member(s) who committed the IPV.

- 15) Common Chapters Manual 700, Appendix A, Section B, provides that 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 Act, the Food Stamp Program Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt or possession of food stamp benefits.
- 16) Common Chapters Manual 700, Appendix A, Section G, states that the State Hearing Officer shall base the determination of Intentional Program Violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, an Intentional Program Violation as defined in Section B of this Appendix.
- 17) The Defendant signed numerous Rights and Responsibilities forms (D-6, D-9) thereby acknowledging the following pertinent responsibilities:
 - 4) I understand if I am found (by court action or an 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.
 - 48) I also understand that if I give incorrect or false information or if I fail to report changes that I am required to report, I may be required to repay any benefits I receive and I may also be prosecuted for fraud. I also understand that any person who obtains or attempts to obtain benefits from DHHR by means of a willfully false statement or misrepresentation or by impersonation or any other fraudulent device can be charged with fraud.
 - 49) 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 the information I have given is true and correct and I accept these responsibilities.

- 18) West Virginia Income Maintenance Manual §9.1.A.2.h states:

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 policy and regulations that govern the Food Stamp program state that a Food Stamp Program Violation has occurred when an individual intentionally makes a false or misleading statement, or misrepresented, concealed or withheld facts relating to the use, presentation, transfer, acquisition, receipt or possession of Food Stamp benefits.
- 2) The regulations state there must be clear and convincing evidence that demonstrates the Defendant intentionally committed an Intentional Program Violation.
- 3) The Defendant clearly was aware of her responsibility to report accurate and truthful information and the penalties involved for failure to do so. She signed numerous Rights and Responsibilities forms during the period in question which clearly informed her of this responsibility.
- 4) The evidence is clear in that the Defendant intentionally reported false information about her household composition on numerous occasions in order to receive SNAP. The evidence is clear in that -----lived with the Defendant at times when she repeatedly reported that he did not. The written evidence shows that a neighbor verified -----lived with the Defendant, and documents from the Department's cross-match with the Social Security Administration showed -----received his benefits and correspondence at the Defendant's residential address. Additionally, written evidence from the Department's computer system shows that the Defendant and -----changed their residential address on their driver's licenses on the same day to the same address. -----receives social security benefits and this income was never reported for consideration in determining SNAP eligibility for the Defendant.
- 5) The evidence is found to show that the Department was correct in its determination that the Defendant has committed an Intentional Program Violation by intentionally reporting false information about her household composition.

IX. DECISION:

The Agency's proposal to apply a one (1) year Food Stamp disqualification penalty is **upheld**. The penalty will begin November 1, 2010.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 28th Day of September, 2010.

**Cheryl Henson
State Hearing Officer**