



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

October 12, 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 October 7, 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 provided false 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 December 1, 2010.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review/Natasha Jemerison, Kanawha DHHR

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

-----,

Defendant

v.

Action Number: 10-BOR-1811

**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 October 7, 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:

Natasha Jemerison, 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 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 October 7, 2010
- D-2 WV Income Maintenance Manual §1.2.E
- D-3 Food Stamp Claim Determination forms and accompanying documents
- D-4 Code of Federal Regulations 7 CFR 273.16
- D-5 SNAP 24-Month Review dated April 20, 2009
- D-6 IPACT Computer Verification and sworn written statements
- D-7 WV Income Maintenance Manual Section 20.6
- D-8 Notification letters to Defendant

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 26, 2010. The Department contends that the Defendant has committed an Intentional Program Violation (IPV) and made a fraudulent statement or misrepresentation regarding his household composition in order to receive SNAP (formerly known as the Food Stamp Program), and is recommending that he be disqualified from participation in SNAP for a period of one (1) year.
- 2) Notification of the October 7, 2010 hearing was mailed to the Defendant on or about August 27, 2010 via first class mail delivery, as the Defendant is a current recipient of benefits through the Department and resides at an address known to be good by the Department.
- 3) The hearing was convened as scheduled at 9:00 a.m. and as of 9:17 a.m. the Defendant failed to appear or notify the Board of Review of any conflict preventing him 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 August 11, 2010 the Department sent the Defendant a Notification of Intent to Disqualify (D-8) form, indicating that the Department had reason to believe he intentionally violated a food stamp rule. The form also included the following:

Based on the evidence developed through our investigation, the agency believes that ----- intentionally violated the food stamp program by: not reporting he was married and living with ----- . The evidence to prove this allegation consists of marriage license, applicants and statements.

- 5) The Department presented evidence to show that the Defendant completed a SNAP 24-Month Review form (D-5) on April 22, 2009 at which time he reported that he was the only individual living in his household. He placed his signature on the form certifying that the information entered therein was true and correct.
- 6) The Department obtained written statements (D-6) that support that the Defendant lived with --- at the time he completed the April 22, 2009 SNAP 24-Month Review determination. One of those statements was obtained on February 24, 2010 from ----- at her address on [REDACTED] West Virginia, and provides that she admitted she married the Defendant during the month of October 2008, and that the Defendant was at her home on the date the statement was given. She provided that they were in the process of getting a divorce. She also provided in the statement that the Defendant is at her home every day and stays the night twice a week.
- 7) The second statement was obtained by the Department (D-6) on March 4, 2010 from ----- . She provided that she is -----' cousin, and that she knows the Defendant lived with ----- from October 2008 through October 1, 2009 in a trailer near her home. She provided that they both moved to another address on [REDACTED] West Virginia in October 2009.
- 8) The Department's witness, Tammy Drumheller, testified that she is a Front-End Fraud Investigator and that she investigated this case. She provided that she obtained both the witness statements submitted as evidence (D-6). She testified that she received a referral for investigation on January 15, 2010 in which the referent indicated that it was believed the Defendant was married and living together with ----- . She stated that she called the telephone number given as a contact number for the Defendant, spoke with him and asked him to provide her with his physical address. She added that she heard the Defendant then call out to ----- and ask her for the address information. She stated this suggested to her that the referral allegation had substance which caused her to investigate and subsequently verify the marriage and obtain witness statements to verify the living arrangements. She stated that her investigation showed that the Defendant was living with ----- and failed to report those circumstances.
- 9) The Department's representative, Natasha Jemerison, a SNAP Repayment Investigator, testified that she reviewed the Defendant's case file and determined that he has received benefits since 2004 "off and on" and several applications as well as rights and responsibilities forms have been read and signed by him, indicating his understanding of his responsibility to report accurate and truthful information and the penalties for failure to do so.

10) 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.

11) 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.

12) 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.

13) 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.

14) The Defendant signed numerous Rights and Responsibilities forms 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.

15) 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 his responsibility to report truthful and accurate information and the penalties involved for failing to do so. He read and signed numerous Rights and Responsibilities forms during the period in question which clearly inform him of these responsibilities.
- 4) The evidence is also clear in that the Defendant intentionally reported false information about his household composition in order to receive SNAP. He reported that he lived alone when the evidence clearly shows that he lived with his wife, -----.
- 5) 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 June 1, 2010.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 13th Day of October, 2010.

**Cheryl Henson
State Hearing Officer**