



**State of West Virginia**  
**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**  
**Office of Inspector General**

**Earl Ray Tomblin**  
**Governor**

**Board of Review**  
P.O. Box 1736  
Romney, WV 26757

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

November 29, 2010

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your Supplemental Nutrition Assistance Program (SNAP) Administrative Disqualification Hearing held November 23, 2010. The purpose of this hearing was to determine whether or not you intentionally committed an Intentional Program Violation.

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 is based on current policy and regulations. These regulations provide that 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. 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 which was submitted at your hearing revealed that you intentionally withheld information concerning your children's Social Security benefits in order to receive benefits for which you were not entitled.

It is the decision of the State Hearing Officer to uphold the proposal of the Department to implement a 12 month Intentional Program Violation.

Sincerely,

Eric L. Phillips  
State Hearing Officer  
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review  
Lori Woodward, RI

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

-----,

**Defendant,**

v.

**Action Number: 10-BOR-1898**

**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 a fair 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 fair hearing was convened on November 23, 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:**

Lori Woodward, Repayment Investigator

Presiding at the hearing was Eric L. Phillips, State Hearing Officer and a member of the Board of Review.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Defendant committed an Intentional Program Violation and should be disqualified for one year from participation in the Supplemental Nutrition Assistance Program or SNAP.

**V. APPLICABLE POLICY:**

Code of Federal Regulations, 7 CFR § 273.16  
Common Chapters Manual, Chapter 700  
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 Combined Application and Review Form with associated Rights and Responsibilities and a computer printout of case comments dated December 2, 2009
- D-2 Notice of Approval dated January 8, 2010
- D-3 WV inROADS recertification submitted April 26, 2010
- D-4 West Virginia Health Care Coverage for Kids and Expectant Moms (WV-Kids-1) dated July 9, 2009
- D-5 West Virginia State Online Query Data Exchange Information with the Social Security Administration
- D-6 Food Stamp Claim Determination Worksheet
- D-7 Notification of Intent to Disqualify
- D-8 West Virginia Income Maintenance Manual Chapter 1.2, 1.4, 2.2, 9.1
- D-9 West Virginia Income Maintenance Manual Chapter 20.2, Common Chapters 740.11

**VII. FINDINGS OF FACT:**

- 1) The Board of Review received a request for an Administrative Disqualification Hearing on September 14, 2010. The Department contends that the Defendant committed an Intentional Program Violation (IPV) and recommends that the Defendant be disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP) for a twelve (12) month period.
- 2) The hearing was originally scheduled for October 20, 2010 and rescheduled at the discretion of the State Hearing Officer. Notice of rescheduled hearing was mailed to the Defendant on October 18, 2010 via certified restricted mail delivery. Notice was received from the United States Postal Service that the Defendant received such scheduling notice on October 19, 2010.
- 3) The hearing was convened as scheduled at 11:30 A.M., on the requested date, as of 11:45 A.M., the Defendant failed to appear. 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 August 25, 2010, the Department issued the Defendant Exhibit D-7, Notification of Intent to Disqualify, indicating that the Department had reason to believe the Defendant intentionally violated a SNAP rule. This exhibit documents in pertinent part:

Based on the evidence developed through our investigation, the agency believes that ----- intentionally violated the food stamp program by withholding unearned income information.

- 5) Lori Woodward, Repayment Investigator testified that on December 7, 2009, the Defendant completed Exhibit D-1, Combined Application and Review Form as part of her application for SNAP benefits. At the application, the Defendant reported that the only income available to the household was from child support payments, child support arrearage payments, and her husband's Retirement, Survivors, and Disability Insurance (RSDI) benefits received from the Social Security Administration. On January 8, 2010, the Department issued the Claimant Exhibit D-2, Notice of Approval notifying the Defendant of the approval of her SNAP application.
- 6) On April 26, 2010, the Defendant submitted an electronic transmission SNAP redetermination through the West Virginia Information Network for Resident Online Access and Delivery of Services (WV inROADS). On the redetermination form, the Claimant reported income from child support and her husband's RSDI benefits.
- 7) Ms. Woodward testified that the Defendant completed a telephonic SNAP redetermination on May 13, 2010. At the redetermination, it was reported that each of the Defendant's three children had been receiving RSDI benefits from the Social Security Administration. Ms. Woodward presented Exhibit D-5, West Virginia State Online Query Data Exchange Information with the Social Security Administration which indicates that each of the Defendant's three children had been receiving RSDI benefits in the amount of \$262.00 monthly since February 2009.
- 8) Ms. Woodward presented Exhibit D-6, Food Stamp Claim Determination Worksheet to establish that the Defendant was issued an overpayment of SNAP assistance in the amount of \$1504.00 for the period of December 2, 2009 through June 2010, a result of the withheld information concerning her children's RSDI benefits.
- 9) West Virginia Income Maintenance Manual Chapter 1.2 indicates:
 

The client's responsibility is to provide information about his circumstances so the Worker is able to make a correct decision about his eligibility.
- 10) West Virginia Income Maintenance Manual, Chapter 9.1 indicates:
 

Persons who have been found guilty of an IPV are disqualified as follows:

  - 1<sup>st</sup> Offense: 1 Year
  - 2<sup>nd</sup> Offense: 2 Years
  - 3<sup>rd</sup> Offense: Permanent
  -
- 11) Common Chapters Manual 740.11.D states as follows:
 

Intentional Program Violation - For the purpose of determining through an Administrative Disqualification Hearing whether or not a person has committed an Intentional Program Violation, the

following criteria will be used. 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 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) Common Chapters Manual 740.22.M states as follows:

Decision – The Hearing Officer shall base the determination of Intentional Program Violation on clear and convincing evidence that demonstrates that the defendant committed, and intended to commit, an Intentional Program Violation as defined in Section 740.11 of this Chapter. The Hearing Officer shall weigh the evidence and testimony presented and render a decision based solely on proper evidence given at the hearing. In rendering a decision, the Hearing Officer shall consider all applicable policies of the Department, state and federal statutes, rules or regulations, and court orders. The decision shall include reference to all pertinent law or policy. If the Hearing Officer rules that the defendant committed an Intentional Program Violation, he or she will include the length and the beginning date of the disqualification penalty.

### **VIII. CONCLUSIONS OF LAW:**

- 1) The policy and regulations that govern SNAP benefits dictate that a 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) Evidence presented during the Administrative Disqualification Hearing is clear that the Defendant had been receiving RSDI benefits for her children since February 2009 and failed to relate such information at her SNAP application on December 7, 2009. The evidence is also clear that, on multiple occasions, the Defendant withheld such information concerning the receipt of such income. As a result of the Defendant withholding income information, an overpayment of SNAP benefits was issued in which the household was ineligible to receive.
- 4) In accordance with SNAP policy and regulations, an Intentional Program Violation has been committed and a disqualification penalty must be applied. The disqualification for a first offense is one (1) year.

- 5) The Defendant is the only assistance group member subject to said disqualification penalty. The one year disqualification penalty will begin January 1, 2011 and will run concurrently for the next 12 months.

**IX. DECISION:**

Intentionally making a false or misleading statement or misrepresenting facts to secure SNAP benefits constitutes a clear violation of the regulations. Based on the evidence presented, I find the violation intentional.

The Department's proposal to apply a twelve (12) month disqualification is upheld.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_\_ day of November 2010.**

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**Eric L. Phillips  
State Hearing Officer**