



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
203 E. Third Avenue
Williamson, WV 25661

Joe Manchin III
Governor

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

May 13, 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 December 1, 2009 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 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.

Intentional Program Violations 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. 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 and Code of Federal Regulations 7 CFR ' 273.16)

Information submitted at the hearing reveals that you intentionally provided false and misleading information about your household 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 June 1, 2010.

Sincerely,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review
Christine Allen, Repayment Investigator

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

-----,

Defendant,

v.

Action Number: 09-BOR-2130

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

Respondent.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from an Administrative Disqualification Hearing concluded on May 13, 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. The hearing was convened on December 1, 2009.

II. PROGRAM PURPOSE:

The purpose of the Supplemental Nutrition Assistance Program (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:

Christine Allen, Repayment Investigator

Presiding at the Hearing was Stephen M. Baisden, State Hearing Officer and a member of the State Board of Review.

The Hearing officer placed participant under oath at the beginning of the hearing.

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:

7 CFR §273.16 Code of Federal Regulations
Common Chapters Manual, Chapter 700
West Virginia Income Maintenance Manual: Chapter 1.2.E, Chapter 9.1, Chapter 10.3.EE,
Chapter 20.1, 20.2 and 20.6

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 IG-BR-31 Hearing Summary.
- D-2 ES-FS-5, SNAP Claim Determination sheet.
- D-3 IQFS Screen print from RAPIDS system showing SNAP issuance history.
- D-4 EFAD Screen print from RAPIDS showing SNAP allotment determination for each month of SNAP benefits received by Defendant.
- D-5 ES-FS-5a SNAP calculation sheets showing corrected benefit amounts.
- D-6 AQCM Screen print from RAPIDS System showing case member history.
- D-7 CMCC Screen print from RAPIDS System showing Income Maintenance worker case comments made on date of Defendant's SNAP application.
- D-8 Screen print from OSCAR System showing child support payments received by Defendant.
- D-9 Screen print from RAPIDS System showing a new hire notification for Defendant.
- D-10 Verification from Defendant's place of employment showing Defendant was hired on January 25, 2009.
- D-11 BVRF Screen print from RAPIDS System showing referral for recoupment.
- D-12 Copies of Combined Application and Review forms signed by Defendant.
- D-13 Copies of Rights and Responsibilities form signed by Defendant.
- D-14 Copy of appointment letter (IFM-1-7d) sent to Defendant asking her to meet with Repayment Investigator to discuss this referral.
- D-15 Copy of IFM-BR-44 Waiver of Administrative Disqualification Hearing form and IFM-BR-44a Notice of Intent to Disqualify form sent to Defendant.
- D-16 Copy of Income Maintenance Manual Chapter 1.2.E showing client responsibility for providing accurate information.
- D-17 Copy of Income Maintenance Manual Chapter 10.3.EEE showing wages from employment are counted as income for the SNAP Program.
- D-18 Copy of Income Maintenance Manual Chapter 20.1 and 20.2 showing SNAP overpayment claims and repayment procedures.
- D-19 Copy of the Code of Federal Regulations (CFR) §273.16 showing disqualifications for Intentional Program Violations.

VII. FINDINGS OF FACT:

- 1) The Department is alleging an act of Intentional Program Violation, or IPV, in the Defendant's SNAP (formerly Food Stamp) case because she allegedly failed to report her income from paid employment during an application interview on March 6, 2009.
- 2) Defendant was mailed notice of the Administrative Disqualification Hearing on October 28, 2009, by first class mail. The notice was sent to -----, ----- . This is the address at which Defendant receives her benefits.
- 3) The hearing was scheduled for 11:00 a.m. on December 1, 2009, and as of 11:15 a.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 convened at 11:15 a.m., and was conducted without the Defendant in attendance.
- 4) On March 6, 2009, Defendant came into the WV Department of Health and Human Resources, [REDACTED] County office in [REDACTED] WV, and applied for SNAP benefits. An Economic Service Worker (ESW) recorded that she made the application and she reported at that time that the only income in her household was from an absent parent's Child Support obligation. (Exhibit D-7) At the conclusion of the application interview, Defendant signed and dated a DFA-RFA-1, a Common Application Form (CAF) which contained information she had given the worker during the interview (Exhibit D-12), and she signed and dated a DFA-RR-1, a Rights and Responsibilities form. (Exhibit D-13.) The CAF signature page states,

I understand my responsibility to provide complete and truthful information. I have reviewed or had read to me the information contained in this automated portion of the application form and I understand the information. I understand that it is a criminal violation of federal and state law to provide false or misleading information for the purpose of receiving benefits to which I am not by law entitled. Under penalty of perjury, I certify that the statements are true and correct.

The DFA-RR-1, Rights and Responsibilities form is a list of applicants' rights and responsibilities for each program for which an applicant applies. The applicant signifies that he or she is aware of each right or responsibility by checking "Yes" or "No" at each item. Under the SNAP Program section of the form, item #4 states,

I understand if I am found (by court action or 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. In addition, I will have to repay any benefits received for which I was not eligible.

Defendant has marked "Yes" at this item.

- 5) On June 26, 2009, Defendant's Economic Services Worker received a "New Hire" alert in Defendant's case. (Exhibit D-9.) A "New Hire" alert is an alert received by an Economic Services Worker and generated when the social security number of a SNAP recipient matches the social security number of a person reported to the State Tax Department as being hired by a West Virginia employer. The "New Hire" alert reported that Defendant was hired at a supermarket near Defendant's residence on January 28, 2009. On September 4, 2009, the Economic Services Worker made a benefit recovery referral to a Repayments Investigator. (Exhibit D-11.)
- 6) The Repayments Investigator submitted into evidence verification from the supermarket in question indicating that Defendant was hired on January 25, 2009 and was terminated from her employment on August 22, 2009. (Exhibit D-6.) According to this verification, Defendant was paid weekly and received a paycheck on March 5, 2009, the day before her SNAP application. The Repayments Investigator determined that Defendant was overpaid \$779 as a result of her not reporting her earned income.
- 7) The Code of Federal Regulations, 7 CFR §273.16(c) (Exhibit D-19), defines an Intentional Program Violation (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).
- 8) The West Virginia Income Maintenance Manual, Chapter 1.2.E (Exhibit D-16), 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 . . . The client must be instructed that his failure to fulfill his obligation may result in one or more of the following actions: denial of the application; closure of the active AG [assistance group]; removal of the individual from the AG; repayment of benefits; reduction in benefits.
- 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

- 10) The West Virginia Income Maintenance Manual, Chapter 20.2.C.2 (Exhibit D-18), states:

IPV's include making false or misleading statements, 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.

- 11) The West Virginia Income Maintenance Manual, Chapter 20.6.A states:

A willfully false statement is one that is deliberately given, with the intent that it be accepted as true, and with the knowledge that it is false. [I]t is not essential that an affirmative representation be made. Misrepresentation may also be the suppression of what is true, as well as in the representation of what is false.

VIII. CONCLUSIONS OF LAW:

The Department has established that the Defendant intentionally withheld information regarding her income from paid employment during an application for SNAP benefits on March 6, 2009. She signed a Computer Application Form to the effect that she received no earned income, and she signed a Rights and Responsibilities document indicating that she was aware of her responsibility to provide complete and accurate information and of the penalties for not doing so.

IX. DECISION:

Failing to report income during a SNAP application is 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, or the Food Stamp program, for a period of twelve (12) months to begin effective June 1, 2010.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 13th Day of May, 2010.

**Stephen M. Baisden
State Hearing Officer**