



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

May 6, 2010

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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 May 6, 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 July 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-858**

**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 May 6, 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 December 28, 2009
- D-2 WV Income Maintenance Manual §1.2.E
- D-3 Code of Federal Regulations §7 CFR 273.16
- D-4 Computer screens from RAPIDS
- D-5 Combined Application Forms (CAF), Rights and Responsibilities forms, other Application forms
- D-6 Initial Assessment and Safety Evaluation Worksheet and Conclusion dated September 17, 2009
- D-7 Food Stamp Claim Determination forms
- D-8 Notification letters to Defendant
- D-9 WV Income Maintenance Manual Sections 20.2 and 20.6
- D-10 Computer Disc of Court Hearing held September 23, 2009
- D-11 Sworn Written Statement dated August 19, 2009

**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 February 23, 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 the Defendant be disqualified from participation in SNAP for a period of one (1) year.
- 2) The Defendant was notified of today's scheduled hearing on or about April 21, 2010 by registered restricted delivery mail. The Defendant has failed to appear or show good cause for

failure to appear. In accordance with Federal Regulations 7 CFR §273.16(e)(4) and Common Chapters Manual Section 740.20, the hearing was held in the her absence.

- 3) On or about January 28, 2010 the Department sent the Defendant a Notification of Intent to Disqualify (D-8) 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 ----- intentionally violated the food stamp program by: not reporting ----- was out of the home. The evidence to prove this allegation consists of applications, FEFU findings, court transcripts.

- 4) The Department presented evidence to show that the Defendant's son, -----, was born on July 16, 2007 at which time the Department obtained physical custody of him (D-4) prior to his discharge from the hospital. The Department contends the Defendant never had custody of the child. The child was added to the Defendant's case at birth.
- 5) The Department also provided evidence to show the Defendant completed at least six (6) applications (D-5) spanning the period of October 16, 2007 through April 20, 2009, during which each time she reported that the child, -----, resided with her. She also signed numerous Rights and Responsibilities forms during this timeframe acknowledging her understanding of her responsibility to report accurate and truthful information and the penalties for failure to do so.
- 6) Additionally, the Department presented evidence which it says shows ----- has never lived with the Defendant. This evidence consists of documentation from a Child Protective Services (CPS) investigation (D-6) conducted during September 2009 showing that the child lives with -----and ----- Scott. This evidence also shows an Order for Guardianship court order dated February 6, 2009 which appoints -----and -----as guardians for ----- . This evidence also includes a copy of a letter from the Social Security Administration (SSA) dated August 24, 2009 which indicates that -----is the payee for the child.
- 7) The Department also presented evidence in the form of a sworn written statement (D-11) from -----in which she states she had ----- in her home since he was two months old. The Department's witness, Front End Fraud Unit (FEFU) Investigator Christina Saunders, testified that she obtained this statement from -----on August 19, 2009. She added that the witness told her that therapists from the "Birth to Three" program come to her home to help the child with his speech and motor skills. She added that the witness told her that the Defendant has only been with the child a few days since he was born.
- 8) The Department's evidence also includes a computer disk (D-10) record from the September 23, 2009 court hearing involving the child in which there is discussion about the child not living with the Defendant.
- 9) 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.
- 10) 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.

- 11) 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.
- 12) 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.
- 13) The Defendant signed numerous Rights and Responsibilities forms (D-6) 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.
- 14) 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:

- 1<sup>st</sup> Offense: 1 year
- 2<sup>nd</sup> Offense: 2 years
- 3<sup>rd</sup> 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 information and the penalties involved. She signed numerous Rights and Responsibilities forms during the timeframe in question, acknowledging her understanding of these responsibilities.
- 4) The evidence is also clear in that the Defendant intentionally reported false information about her household composition on numerous occasions in order to receive SNAP. The Defendant's child, -----, never resided with her yet she repeatedly reported that he did.
- 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 July 1, 2010.

### **X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 6<sup>th</sup> Day of May, 2010.**

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**Cheryl Henson  
State Hearing Officer**