



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 19, 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 March 26, 2010 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: 10-BOR-834**

**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 19, 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 March 26, 2010.

**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 DXUI Screen print from RAPIDS System showing taxable income of \$17,340 for Defendant in 2008.
- D-9 Copy of payment stub from [REDACTED] showing payment of \$1445 made to Defendant on September 24, 2009.
- D-10 TRNA Screen print from OSCAR System showing worker case comments dated December 1, 2005.
- D-11 Copies of Combined Application and Review forms signed by Defendant.
- D-12 Copy of Rights and Responsibilities form signed by Defendant.
- D-13 Copy of Notice of Decision sent to Defendant dated September 3, 2009, showing no reported income.
- D-14 Copy of appointment letter (IFM-1-7d) sent to Defendant asking him 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.J showing annuity payments 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 his income from an insurance company annuity during an application interview on September 2, 2009.
- 2) Defendant was mailed notice of the Administrative Disqualification Hearing on February 26, 2010, by first class mail. The notice was sent to [REDACTED] -----  
This is the address at which Defendant receives his benefits.
- 3) The hearing was scheduled for 10:30 a.m. on March 26, 2010, and as of 10:45 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 10:45 a.m., and was conducted without the Defendant in attendance.
- 4) On September 2, 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 he made the application and he reported at that time that there was no income in his household. (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 he had given the worker during the interview (Exhibit D-12), and he 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 November 6, 2009, Defendant's Economic Services Worker received a data exchange match on Defendant's case from the U.S. Internal Revenue Service (IRS) indicating Defendant had received income in the amount of \$17,340 in tax year 2008 from [REDACTED] (Exhibit D-8.) This income amount divided by 12 equals \$1,445. A check of the State of West Virginia's Child Support Enforcement network, known as OSCAR, indicated that Defendant was receiving these payments in 2005. (Exhibit D-10.)
- 6) On December 3, 2009, Defendant returned to the [REDACTED] County office of the WV DHHR and applied for Medicaid. At that time, he reported that he received payments in the amount of \$1,445 per month from an annuity through the [REDACTED]. He stated during the application interview that this income was the proceeds from an automobile accident insurance settlement. (Exhibit D-7, page 3.) Defendant submitted verification of the insurance annuity income, a check stub from his monthly annuity payment dated September 24, 2009. (Exhibit D-9) Defendant's Economic Services Worker made a referral to a Repayments Investigator on the date of the Medicaid application. (Exhibit D-7, page 4.)
- 7) The Repayments Investigator completed an ES-FS-5, Food Stamp Claim Determination, wherein she calculated that Defendant was overpaid SNAP benefits from the date of the SNAP application, September 2, 2009, to the month of his Medicaid application, December, 2009, and that the amount of the overpayment was \$1,392. (Exhibit D-2.)
- 8) 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).
- 9) 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.
- 10) 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

- 11) 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.

- 12) 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 concerning income from an insurance company annuity during a SNAP benefits application on September 2, 2009. He signed a Computer Application Form to the effect that he received no income, and he signed a Rights and Responsibilities document indicating that he was aware of his responsibility to provide complete and accurate information and of the penalties for not doing so.

### IX. DECISION:

Not reporting 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 July 1, 2010.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 19th Day of May, 2010.**

---

**Stephen M. Baisden  
State Hearing Officer**