



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

August 17, 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 June 2, 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 (SNAP) 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 composition 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 September 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-963

**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 August 17, 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 June 2, 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.A.1, Chapter 10.3.EE,
Chapter 20.1 and 20.2

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 on February 11, 2010 and additional comments made on February 12, 2010.
- D-8 Screen print from WV DHHR Social Services' FACTS System showing Defendant's newborn child was removed from her custody on January 11, 2010.
- D-9 Screen print from WV DHHR Bureau of Child Support Enforcement's OSCAR System indicating a foster care case for Defendant's newborn child was created on February 2, 2010, noting the infant was placed in DHHR custody on January 11, 2010.
- D-10 Copies of Combined Application and Review forms signed by Defendant.
- D-11 Copy of Rights and Responsibilities form signed by Defendant.
- D-12 Copy of Notice of Decision sent to Defendant dated February 12, 2010, showing Defendant's infant son was included in her SNAP assistance group.
- D-13 Copy of appointment letter (IFM-1-7d) sent to Defendant asking her to meet with Repayment Investigator to discuss the referral.
- D-14 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-15 Copy of Income Maintenance Manual Chapter 1.2.E showing client responsibility for providing accurate information.
- D-16 Copy of Income Maintenance Manual Chapter 9.1.A.1 showing that a SNAP assistance group must include all eligible individuals who both live together and purchase and prepare their meals together.
- D-17 Copy of Income Maintenance Manual Chapter 20.1 and 20.2 showing SNAP overpayment claims and repayment procedures.
- D-18 Copy of the Code of Federal Regulations (CFR) §273.16 showing disqualifications for Intentional Program Violations.

- 5) On February 12, 2010, Defendant's Economic Services Worker recorded that she received information from the Social Services division of the WV DHHR, ██████████ County Office, that the Child Protective Services (CPS) unit took legal and physical custody of Defendant's newborn baby. (Exhibit D-7, third page.) To verify this information, a worker in the CPS unit submitted to the Economic Service Worker a print-out from the Social Services' database, known as the Family and Children Tracking System (FACTS), showing that the removal order from the ██████████ County Circuit Court was entered on January 11, 2010, and a copy of the emergency custody order signed by ██████████ County Circuit Court Judge ██████████ (Exhibit D-8.)
- 6) On February 17, 2010, the Economic Services Worker who took Defendant's SNAP application received from the WV Bureau of Child Support (BCSE), ██████████ County office, a print-out from BCSE's On-line Support Collection and Reporting (OSCAR) network which indicated that a foster care child support case had been created for Defendant's baby because the baby was placed in DHHR custody on January 11, 2010. (Exhibit D-9.) Defendant's Economic Services Worker made a referral to a Repayments Investigator. (Exhibit D-7, page 3.)
- 7) The Repayment Investigator completed an ES-FS-5, Food Stamp [SNAP] Claim Determination, wherein she calculated that Defendant was overpaid SNAP benefits for the month of the application, February, 2010, and that the amount of the overpayment was \$234. (Exhibit D-2.)
- 8) The Code of Federal Regulations, 7 CFR §273.16(c) (Exhibit D-18), 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 [SNAP] 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-15), 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.1 (Exhibit D-16) states:

The SNAP AG must include all eligible individuals who both live together and purchase and prepare their meals together.

11) The West Virginia Income Maintenance Manual, Chapter 20.2.C.2 (Exhibit D-17), 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 [SNAP] regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of SNAP benefits.

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 made a willful (or intentional) false statement to the effect that her newborn baby was living with her, during a SNAP benefits application on February 11, 2010. She signed a application form which contained the incorrect information that the baby was in her assistance group, and she signed a Rights and Responsibilities document indicating that she was aware of his responsibility to provide complete and accurate information and of the penalties for not doing so.

IX. DECISION:

Falsely reporting during a SNAP application that an individual resided in a person's home, when that individual no longer lives in the home, 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 for a period of twelve (12) months to begin effective September 1, 2010.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 17th Day of August, 2010.

**Stephen M. Baisden
State Hearing Officer**