



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

Earl Ray Tomblin
Governor

Rocco S. Fucillo
Cabinet Secretary

July 13, 2012

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 on June 13, 2012, 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.

An Intentional Program Violation consists of intentionally having made a false or misleading statement, or misrepresented, concealed or withheld facts; or committed any act that constitutes a violation of the Food Stamp (SNAP) Act, SNAP regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of SNAP benefits. [WV Income Maintenance Manual Section 20.2.C.2 and 7 CFR Section 273.16 (c)]

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 August 1, 2012.

Sincerely,

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

cc: Erika Young, Chairman, Board of Review
Brian Shreve, Repayment Investigator

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

IN RE: -----,

Defendant,

v.

ACTION NO.: 12-BOR-1136

**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 Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. The hearing was convened on June 13, 2012, at the -----County office of the WV DHHR in -----, WV.

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:

Brian Shreve, Repayment Investigator, Department's Representative.

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 20.2 and 20.6

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- M-1 Copy of the Code of Federal Regulations (CFR) §273.16 showing disqualifications for Intentional Program Violations
- M-2 BVRF Screen print from RAPIDS System showing referral for recoupment
- M-3 ES-FS-5, SNAP Claim Determination sheet
- M-4 Case recordings from Defendant's SNAP case record, dated October 24, 2011, and November 9, 2011
- M-5 Income verification request form sent to -----, -----, WV, on December 22, 2011, completed and returned to the Department on December 23, 2011
- M-6 Copy of Defendant's internet SNAP application dated March 28, 2011
- M-7 Case recordings from Defendant's SNAP case record, dated April 14, 2011
- M-8 Employee Wage Data from the Bureau of Employment Programs indicating quarterly wages for Defendant's spouse from the fourth quarter of 2009 through the fourth quarter of 2011
- M-9 Copy of Income Maintenance Manual Chapter 1.2.E showing customer responsibility for providing accurate information
- M-10 Copy of Income Maintenance Manual Chapter 20.2 showing SNAP benefit claims and repayment procedures
- M-11 Copy of Income Maintenance Manual Chapter 20.6.A showing definitions of Welfare Fraud
- M-12 Copy of IFM-BR-44 Waiver of Administrative Disqualification Hearing form and IFM-BR-44a Notice of Intent to Disqualify form, sent to Defendant on January 9, 2012

VII. FINDINGS OF FACT:

- 1) The Department is alleging an act of Intentional Program Violation, or IPV, in the Defendant's SNAP case because she allegedly reported during a SNAP review/

redetermination interview that her husband worked at a bowling alley part-time, and did not report that he worked for full-time for a mining supply company.

- 2) Defendant was mailed notice of the Administrative Disqualification Hearing on May 10, 2012, by first class mail. The notice was sent to -----, WV. This is identified by Department's Representative as being Defendant's mailing address for previous WV DHHR correspondence.
- 3) The hearing was scheduled to begin at 1:30 PM on June 13, 2012, and as of 1:45 PM, 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 1:45 PM, and was conducted without the Defendant in attendance.
- 4) Department's Representative, a Repayment Investigator for the Investigations and Fraud Management (IFM) unit of the WV DHHR, stated that on October 25, 2011, he received a notice from an Economic Service Worker in the -----County office of the WV DHHR, alleging that Defendant's husband had been hired full-time at a new place of employment in April 2011, but reported on an internet SNAP application completed on April 14, 2011, that her husband worked part-time at a bowling alley. (Exhibit M-2.)
- 5) On April 14, 2011, a worker at the WV DHHR, -----County Office in -----, WV, recorded that Defendant completed an on-line SNAP benefit review on March 28, 2011, and she completed the follow-up telephone interview on April 14. (Exhibit M-7.) During the application, Defendant reported that her SNAP assistance group (AG) consisted of herself, her husband, and her two children, and the only income in her AG was from her husband's part-time employment at -----.
- 6) Department's Representative submitted into evidence a record made by an Economic Service Worker at the -----County DHHR office on October 24, 2011. (Exhibit M-4.) The recording reports that Defendant had come into the office that day to complete a SNAP review. According to the recording, Defendant reported that her husband's job at ----- had ended on August 6, 2011, and he had gone to work at ----- in -----, WV. The recording indicates the worker checked the DHHR's "Data Exchange," a computerized data sharing system that reports information from several state and federal agencies concerning public assistance recipients, and found that Defendant's husband had gone to work for ----- on April 6, 2011, but continued to work part-time at ----- until August 6. The worker recorded that she referred the matter to the IFM unit.
- 7) Department's Representative stated that he sent an income verification form (Exhibit M-5) to ----- on December 22, 2011. He stated that one of the owners of ---- completed the income verification form and returned it to him on December 23, 2011. According to the form, the owner verified that Defendant's husband had begun his employment at ---- on April 6, 2011, and he verified the husband's gross earnings. Department's Representative stated that he completed a Food Stamp Claim Determination Form (Exhibit M-3) based on this information, and he calculated that the Defendant was overpaid SNAP benefits in

the amount of \$2347 as a result of not reporting her husband's employment during her April 24, 2011, SNAP redetermination interview.

- 8) The Code of Federal Regulations, 7 CFR §273.16(c) (Exhibit M-1), 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 M-9), 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 20.2.C.2 (Exhibit M-10), states:

IPVs 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.

- 11) The West Virginia Income Maintenance Manual, Chapter 20.6.A (Exhibit M-11) 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 failed to report that her husband had begun working at a full-time job when she completed a telephone interview as part of a SNAP benefit review/redetermination on April 24, 2011. She signed an internet review form to the effect that her husband was working part-time at -----, and reported the same during the telephone interview.

IX. DECISION:

Withholding information concerning earned income during a SNAP redetermination 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 effective August 1, 2012.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 13th Day of July, 2012.

**Stephen M. Baisden
State Hearing Officer**