



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 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 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-1137

**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 Copy of Combined Application Form and Rights and Responsibilities Form dated and signed by Defendant on October 6, 2011
- M-5 Case recordings from Defendant's SNAP case record, dated October 6, 2011, and October 12, 2011
- M-6 DXNH Screen print from RAPIDS System showing Defendant was hired by ----- on September 21, 2011, also biweekly paycheck stubs for October 7, 2011, October 21, 2011, and November 4, 2011
- M-7 Case recording from Defendant's SNAP case record, dated November 14, 2011
- M-8 Copy of Income Maintenance Manual Chapter 1.2.E showing customer responsibility for providing accurate information
- M-9 Copy of Income Maintenance Manual Chapter 20.2 showing SNAP benefit claims and repayment procedures
- M-10 Copy of Income Maintenance Manual Chapter 20.6.A showing definitions of Welfare Fraud
- M-11 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 12, 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 application

interview that neither she nor her boyfriend received earned or unearned income, while she was working and receiving earnings.

- 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 all previous WV DHHR correspondence.
- 3) The hearing was scheduled to begin at 10:00 AM on June 13, 2012, and as of 10:15 AM, 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 10:15 AM, 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 November 14, 2011, he received notice from an Economic Service Worker in the ----- County office of the WV DHHR, alleging that Defendant had been hired at a new place of employment on September 21, 2011, and reported during a SNAP application on October 6, 2011, that neither she nor her boyfriend received earned or unearned income. (Exhibit M-2.)
- 5) On October 6, 2011, a worker at the WV DHHR, ----- County Office in -----, WV, recorded that Defendant completed an application for SNAP benefits. (Exhibit M-5.) During the application, Defendant reported that her SNAP assistance group (AG) consisted of herself, her boyfriend, and her two children, and neither she nor her boyfriend received earned or unearned income. The recording indicates that Defendant's boyfriend had been working at ----- in the -----, WV, area, but lost his job not long before the October 6 application date. 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 and a DFA-RR-1, a Rights and Responsibilities form. (Exhibit M-4.) 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. The worker’s recordings (Exhibit M-4) indicate that the Defendant’s application was approved and her SNAP benefits were issued on October 6, 2011.

- 6) Department’s Representative stated that on November 14, 2011, an Economic Service Worker at the ----- County DHHR office attempted to determine if Defendant’s boyfriend received a final paycheck from his place of employment after the October 6 application, and found that he did not. However, while doing so, the worker found a notice from the WV Tax Department (Exhibit M-6) through the DHHR’s “Data Exchange,” a computerized data sharing system that reports information from several state and federal agencies concerning public assistance recipients. The notice indicated that Defendant was hired at ----- in the -----, WV, area on September 21, 2011. Department’s Representative submitted into evidence a case recording made by the worker on November 14, 2011, wherein he or she recorded the above information and recorded that the matter was referred to the IFM unit on that date. (Exhibit M-7.)
- 7) Department’s Representative stated that he completed a Food Stamp Claim Determination Form (Exhibit M-3) wherein he calculated that the Defendant was overpaid SNAP benefits in the amount of \$186 as a result of not reporting her earnings at her October 6, 2011, SNAP application 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-8), 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-9), 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-10) 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 she was working full-time and receiving earned income when she applied for SNAP benefits on October 6, 2011. She signed a CAF and a Rights and Responsibilities Form indicating that she was aware of her responsibility to provide complete and accurate information and of the penalties for not doing so.

IX. DECISION:

Withholding information concerning earned 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 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**