



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 Washington Street, West
Charleston, WV 25313

Earl Ray Tomblin
Governor

Rocco S. Fucillo
Cabinet Secretary

August 9, 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 (ADH) held August 7, 2012, for the purpose of determining whether 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 [SNAP] Act, SNAP Regulations, or any State statute relating to the use presentation, transfer, acquisition, receipt or possession of SNAP 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 §20.2 and Code of Federal Regulations - 7 CFR §273.16).

The information submitted at the hearing shows that you intentionally provided false information about your household's circumstances in order to receive SNAP benefits for which you were not eligible.

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 will begin September 1, 2012.

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 AND HUMAN RESOURCES
BOARD OF REVIEW**

IN RE: -----,

Defendant,

v.

ACTION NO.: 12-BOR-1326

**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 (ADH) 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. This hearing was convened on August 7, 2012.

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, 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:

- M-1 Benefit Recovery Referral Screen from Department's RAPIDS computer system dated April 23, 2012
- M-2 West Virginia Income Maintenance Manual §1.2.E
- M-3 Food Stamp Claim Determination forms and supporting documentation
- M-4 Code of Federal Regulations 7 CFR § 273.16
- M-5 SNAP application dated July 7, 2009, and supporting documentation
- M-6 Rights and Responsibilities form dated July 7, 2009
- M-7 SNAP/WV WORKS cash assistance application dated September 1, 2009
- M-8 Rights and Responsibilities form dated September 1, 2009
- M-9 SNAP redetermination application dated November 30, 2009 and supporting documentation
- M-10 Rights and Responsibilities form dated November 30, 2009
- M-11 Numerous sworn written statements, Facebook page, earned income verification, notarized letter, adoption verification, birth certificates, and emergency contact forms
- M-12 West Virginia Income Maintenance Manual §2.2, B, 4
- M-13 West Virginia Income Maintenance Manual §20.6, A
- M-14 Notification letters to Defendant dated April 23, 2012

VII. FINDINGS OF FACT:

- 1) The Department of Health and Human Resources (Department) requested an ADH hearing with the Board of Review on February 21, 2012. The Department contended that the Defendant has committed an Intentional Program Violation (IPV) and that she has made fraudulent statements or withheld information regarding her household composition and income in order to receive SNAP, and recommended that she be disqualified from participation in SNAP for a period of one (1) year.

- 2) Notification of the August 7, 2012 hearing was mailed to the Defendant on or about June 28, 2012, via first class mail delivery, as the Defendant is a current recipient of benefits through the Department and resides at an address confirmed to be good by the Department.
- 3) The hearing was convened as scheduled at 11:00 a.m., and as of 11:16 a.m., the Defendant failed to appear or notify the Board of Review of any conflict preventing her from appearing. As set forth in the Code of Federal Regulations found at §7 CFR 273.16 (e) (4), and State Policy (West Virginia Department of Health and Human Resources' Common Chapters Manual, Chapter 740.20), the hearing was conducted without the Defendant in attendance.
- 4) On or about April 23, 2012, the Department sent the Defendant a Notification of Intent to Disqualify (M-14) letter indicating that it had reason to believe she intentionally violated a SNAP rule by including her children in her case when they did not reside with her, and by not reporting that she lived with her husband, -----.
- 5) The Department presented evidence (M-5, M-6) which supports that the Defendant completed an application interview for SNAP on July 7, 2009, at which time she reported that her household consisted of three (3) persons, herself and two (2) children. She reported no earned or unearned income. She also reported that her last name changed from ----- to -----; however, she did not provide a reason for the name change. She signed the application (M-5) and Rights and Responsibilities form (M-6), indicating that she understood her responsibility to report accurate and truthful information and the penalties for failure to do so.
- 6) The Department presented additional evidence (M-7, M-8) which supports that the Defendant completed an application interview for WV WORKS cash assistance benefits on September 1, 2009, at which time she reported that her household consisted of four (4) persons, herself and three (3) children. She reported no earned or unearned income. She signed the application (M-7) and Rights and Responsibilities form (M-8) indicating that she understood her responsibility to report accurate and truthful information and the penalties for failure to do so.
- 7) The Department presented additional evidence (M-9, M-10) which supports that the Defendant completed an application interview for SNAP on November 30, 2009, at which time she reported that her household consisted of four (4) persons, herself and three (3) children. She reported no earned income and reported unearned income from the Social Security Administration. She signed the application (M-9) and Rights and Responsibilities form (M-10) indicating she understood her responsibility to report accurate and truthful information and the penalties for failure to do so.
- 8) The Department presented additional evidence (M-11) which supports that the Defendant married ----- on August 3, 2009, and that she has lived with him continuously since that time. The evidence (M-11) also supports that the Defendant's children have lived with their maternal grandfather since 2004 and not with the Defendant. The Defendant's mother-in-law signed a sworn written statement attesting that the Defendant's children do not live with her, and that she married ----- on August 3, 2009. The Defendant's father signed a sworn written statement attesting that the Defendant's children have lived with him since 2004. The Defendant's

landlord signed a sworn written statement dated March 5, 2010, attesting that the Defendant and her husband had rented from him for the estimated period of October or November 2009 through the date of the statement; he also added that he was not sure about the living arrangements for the Defendant's children. Other neighbors signed statements supporting that the Defendant lived with her husband and not with her children during the period in question. The Defendant's *Facebook* account supports that she lists herself as married with an anniversary date of August 3, 2009. The evidence (M-11) supports that the Defendant's husband has been employed since September 22, 2009, at ----- ----- . The evidence also supports that the Defendant's father adopted her three (3) children during 2004.

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 [SNAP] Act of 1977, [SNAP] regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of [SNAP].

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, specifies that an IPV 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 [SNAP] Act, the SNAP Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt or possession of SNAP benefits.

12) Common Chapters Manual 700, Appendix A, Section G, states that the State Hearing Officer shall base the determination of IPV on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, an IPV as defined in Section B of this Appendix.

13) 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:

- 1st Offense: 1 year
- 2nd Offense: 2 years
- 3rd Offense: Permanent

VIII. CONCLUSIONS OF LAW:

- 1) The policy and regulations that govern SNAP specify that a SNAP violation has occurred when an individual intentionally makes a false or misleading statement, misrepresents, conceals, or withholds facts relating to the use, presentation, transfer, acquisition, receipt or possession of SNAP benefits.
- 2) The regulations state there must be clear and convincing evidence that demonstrates the Defendant intentionally committed an IPV.
- 3) The Defendant was clearly aware of her responsibility to report truthful and accurate information and the penalties involved for failing to do so. She read and signed the numerous application forms, as well as Rights and Responsibilities forms, which clearly informed her of these responsibilities.
- 4) The evidence clearly and convincingly shows that the Defendant intentionally reported false information to the Department about her household composition and income during numerous application interviews in 2009. She reported that her children lived in the household with her, when the evidence verifies that they lived with their maternal grandfather at a separate address. The evidence also confirms that the Defendant's father adopted her three (3) children in 2004. The evidence further reveals that the Defendant withheld information regarding her marriage during August 2009 to -----, and that they lived together continuously from that date. Lastly, the Defendant withheld information about -----'s employment income from the Department. Numerous other witness statements, as well as the Defendant's *Facebook* page, corroborate this information.
- 5) The Department was correct in its determination that the Defendant has committed an IPV by intentionally reporting false information about her household composition and income.

IX. DECISION:

The Agency's proposal to apply a one (1) year Food Stamp disqualification penalty is **upheld**. The Defendant's penalty period will begin September 1, 2012.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 9th Day of August 2012.

**Cheryl Henson
State Hearing Officer**