



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL**

**Earl Ray Tomblin
Governor**

**Board of Review
2699 Park Avenue, Suite 100
Huntington, West Virginia 25704**

**Rocco S. Fucillo
Cabinet Secretary**

August 24, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on the SNAP Administrative Disqualification Hearing held August 2, 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 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, formerly known as the Food Stamp Program, 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 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 coupons. 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; Code of Federal Regulations 7 CFR §273.16)

Information submitted at the hearing reveals that you falsely reported 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 October 1, 2012.

Sincerely,

Todd Thornton
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Cassandra Burns, Department Representative

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

IN RE: -----,

Defendant,

v.

ACTION NO.: 12-BOR-1355

**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 the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This hearing was convened on August 2, 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:

Cassandra Burns, Department representative

Presiding at the Hearing was Todd Thornton, State Hearing Officer and a member of the State Board of Review.

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:

Code of Federal Regulations, 7 CFR §273.16
West Virginia Income Maintenance Manual, Chapter 20.2; Chapter 9.1.A.2.h; Chapter 9.1.A.1.b(2)

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Benefit recovery referral screen print
- D-2 School verification
- D-3 Statement from neighbor
- D-4 West Virginia Income Maintenance Manual, Chapter 1.2
- D-5 Documentation of SNAP repayment claims
- D-6 Code of Federal Regulations, 7 CFR §273.16
- D-7 Combined Application and Review Form (CAF) and Rights and Responsibilities form, dated May 4, 2009
- D-8 Case comments, entry dates July 2, 2009, through November 4, 2009
- D-9 Case comments, entry dates January 29, 2010, through March 19, 2010
- D-10 Online SNAP application document, dated April 13, 2010
- D-11 Case comments, entry dates April 16, 2010, through April 20, 2010
- D-12 West Virginia Income Maintenance Manual, Chapter 20.6
- D-13 Notification of Intent to Disqualify, dated February 27, 2012; Waiver of Administrative Disqualification Hearing
- D-14 Case comments, entry dates March 8, 2012, through June 1, 2012
- D-15 Notification of Intent to Disqualify, dated May 1, 2012; Waiver of Administrative Disqualification Hearing
- D-16 West Virginia Income Maintenance Manual, Chapter 20.2

VII. FINDINGS OF FACT:

- 1) The Investigations and Fraud Management (IFM) unit of the West Virginia Department of Health and Human Resources (Department) is alleging an act of Intentional Program Violation (IPV) in the Defendant's case due to her falsely reporting household composition affecting the Defendant's eligibility for SNAP, formerly known as the Food Stamp Program.

- 2) The hearing convened as scheduled at 2:00 p.m., and as of 2:15 p.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 was conducted without the Defendant in attendance.
- 3) The Code of Federal Regulations, 7 CFR §273.16(c), defines an 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).
- 4) Cassandra Burns, representative for the Department, presented a SNAP application document (Exhibit D-7) in which the Defendant reported only herself in the home. Ms. Burns additionally presented case comments (Exhibit D-8) from July 2, 2009, noting that the Defendant added her daughter ----- to her SNAP benefits. Case comments (Exhibit D-8) from January 29, 2010 (Exhibit D-9) were presented to show when the Defendant added her son ----- to her SNAP benefits.
- 5) The Department presented an April 13, 2010 SNAP online review document (Exhibit D-10). This document was affixed with the electronic signature of the Defendant, certifying that "...all the information I have given is true and correct..." The Defendant listed ----- and ----- as residing with her. The Defendant listed school attendance for the children, noting ----- as attending "-----" and ----- as attending "-----."
- 6) The Department presented a statement (Exhibit D-3) dated March 17, 2011, from the Defendant's neighbor, ----- . ----- stated that the Defendant lived with her mother, and that ----- only saw children "...about every 6 or 7 months for the weekend."
- 7) The Department presented school verification (Exhibit D-2) from ----- Elementary School in -----, [REDACTED] and ----- Middle School in -----, West Virginia. The response from ----- Elementary School noted that ----- enrolled in that school in 2008

and her records were sent to ----- Middle School in June 2010. The response from ----- Middle School noted that ----- enrolled on August 27, 2007, and transferred on November 19, 2007.

- 8) Ms. Burns testified that as a result of the Defendant falsely reporting household composition, she received a series of overissuances (Exhibit D-5) of SNAP benefits totaling \$3890.00 between August 2009, and September 2010. Ms. Burns confirmed that the Defendant has no prior IPV offenses, and that the proposed IPV would be a first offense.
- 9) 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

VIII. CONCLUSIONS OF LAW:

- 1) The Department clearly established that the Defendant falsely reported information regarding her household composition. The Department noted case comments when the Defendant reported her children as returning to her household, and the Defendant completed a SNAP review in which she reaffirmed that her children resided with her. School verification revealed that her son was not enrolled in the reported school at the time, and that her daughter was enrolled in school in [REDACTED] at the time. A statement from the Defendant's neighbor indicated that the children of the Defendant did not reside with her.
- 2) The Department also clearly established the intent of the Defendant to provide misleading information to receive SNAP benefits for which she would not have otherwise been entitled. By falsely reporting household composition, the Defendant caused a series of overissuances of SNAP benefits totaling \$3890.00. The Department was correct in its determination that an IPV was committed by the Defendant.

IX. DECISION:

Intentionally withholding, concealing, or providing misleading facts to secure SNAP benefits constitutes 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 October 1, 2012.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this _____ Day of August 2012.

Todd Thornton
State Hearing Officer