



**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 21, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on the SNAP Administrative Disqualification Hearing held May 17, 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 withheld information about your household composition and 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 October 1, 2012.

Sincerely,

Todd Thornton
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Brian Shreve, Department Representative

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

IN RE: -----,

Defendant,

v.

ACTION NO.: 12-BOR-1363

**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 May 17, 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:

Brian Shreve, Department representative
-----, Defendant
-----, Defendant's witness

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 Code of Federal Regulations, 7 CFR §273.16
- D-2 Benefit recovery referral screen print
- D-3 Food Stamp Claim Determination form and supporting documentation
- D-4 Application for Emergency Assistance dated March 1, 2010
- D-5 SNAP phone review form dated April 27, 2012
- D-6 Combined Application and Review form (CAF) and Rights and Responsibilities form dated January 28, 2011
- D-7 Case comments screen prints, entry dates January 21, 2010 through April 7, 2011
- D-8 Income verification
- D-9 Marriage certificate
- D-10 Case household information screen prints for the Defendant
- D-11 Case household information and Case household mailing address screen prints for -----
- D-12 Case comments screen print (duplicate to one page of D-7)
- D-13 Case comments screen print for Defendant under a different case number
- D-14 West Virginia Income Maintenance Manual, Chapter 1.2
- D-15 West Virginia Income Maintenance Manual, Chapter 20.2
- D-16 West Virginia Income Maintenance Manual, Chapter 20.6
- D-17 Waiver of Administrative Disqualification Hearing form signed by Defendant requesting a hearing

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 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).
- 3) Brian Shreve, representative for the Department, presented application and review documents for SNAP (Exhibits D-6 and D-8) signed by the Defendant on December 28, 2010, and May 31, 2011, respectively. On these documents, the Defendant reported herself and her son, -----, as residing in her home.
- 4) Mr. Shreve presented school verification (Exhibit D-5) to show that the Defendant's son was enrolled in school with ----- listed as the parent or guardian and as the contact person in the event of an emergency. There was no dispute that the Defendant's son lived with ----- during the period of time under consideration by the Department. The Defendant and ----- – the Defendant's witness and niece – testified that the Defendant's son was only with the Defendant from Friday through Sunday each week.
- 5) The Defendant testified that she did not have any fraudulent intent. She contended that this issue is the result of a "misunderstanding," and that during the SNAP reviews in question she simply reported to the interviewing worker that her household circumstances were "the same." Because the Defendant's son did reside in her household prior to the period of time under consideration by the Department, her SNAP case continued to maintain the Defendant's son as present in her household after he was actually residing with -----.
- 6) The SNAP application or review documents (Exhibits D-6 and D-8) include the following statement on the signature page, in pertinent part:

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.

- 7) Mr. Shreve testified that as a result of the Defendant falsely reporting household composition, she received an overissuance (Exhibit D-3) of SNAP benefits totaling \$5330.00 between January 2009, and September 2011. Mr. Shreve confirmed that the Defendant has no prior IPV offenses, and that the proposed IPV would be a first offense.

- 8) 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. There was no dispute that the household composition, as counted on the Defendant's case, was in error. The Defendant signed two SNAP review documents reflecting this incorrect household composition, and in doing so affirmed them as true.

- 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 an overissuance of SNAP benefits in the amount of \$5330.00. The Defendant testified that she had no fraudulent intent, and that this overissuance was caused by miscommunication or vaguely reporting unchanged household circumstances; however,

the Defendant signed documents that clearly show she falsely reported these household circumstances on two separate instances. 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