



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
9083 Middletown Mall
White Hall, WV 26554

Earl Ray Tomblin
Governor

Rocco S. Fucillo
Cabinet Secretary

August 13, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on the Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, Administrative Disqualification Hearing held August 9, 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 the Supplemental Nutrition Assistance Program, hereinafter, SNAP (formerly 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: An Intentional Program Violation consists of having intentionally 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. 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).

Information submitted at the hearing reveals that you intentionally provided false and misleading information about your household income in order to receive SNAP benefits to which you were not legally entitled.

It is the decision of the State Hearing Officer that you committed an Intentional Program Violation and a disqualification penalty of one (1) year will be applied. This disqualification will begin effective September 1, 2012.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Samantha Close, RI, WVDHHR

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

-----,

Defendant,

v.

Action Number: 12-BOR-1392

**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 9, 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:

Samantha Close, Repayment Investigator (RI), WVDHHR

Presiding at the hearing was Thomas E. Arnett, 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 (IPV) and should be disqualified for a specified period from participation in the SNAP.

V. APPLICABLE POLICY:

7 CFR § 273.16 USDA Code of Federal Regulations
Common Chapters Manual, Chapter 700
West Virginia Income Maintenance Manual, Chapters 1.2, 2.2, 20.1, 20.2 and 20.6

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- DHS-1 IG-BR-31 – Hearing Summary
- DHS-2 ES-FS-5 - SNAP Claim Determination for November 2010 – January 2012
- DHS-3 EFAD Screen Prints from RAPIDS system showing SNAP allotment for November 2011 – May 2011 and SNAP Calculation Sheets showing corrected benefit issuance
- DHS-4 IQFS Screen Print from RAPIDS system showing SNAP disbursements
- DHS-5 CMCC Screen Print from RAPIDS system showing case comments from workers
- DHS-6 12-month Phone SNAP review completed on 10/19/10, and Combined Application and Review Form completed on 10/12/11
- DHS-7 Retirement income verification from [REDACTED] Pension
- DHS-8 Notification of Intent to Disqualify mailed on April 23, 2012
- DHS-9 Waiver of Administrative Disqualification Hearing mailed on April 23, 2012
- DHS-10 BVCC Screen Print from RAPIDS system showing case comments from IFM worker
- DHS-11 West Virginia Income Maintenance Manual Chapter 1.2
- DHS-12 West Virginia Income Maintenance Manual Chapter 20.1 and 20.2
- DHS-13 West Virginia Income Maintenance Manual Chapter 20.6
- DHS-14 7 CFR § 273.16 USDA Code of Federal Regulations

VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from Repayment Investigator Samantha Close on June 7, 2012. Ms. Close, representing the Department of Health and Human Resources (Department), contends that the Defendant has committed an Intentional Program Violation (IPV), and therefore, she is recommending that the Defendant be disqualified from participation in the Supplemental Nutrition Assistance Program, hereinafter SNAP (formerly Food Stamp Program), for a period of one (1) year.
- 2) Notification of the August 9, 2012 hearing was mailed to the Defendant on June 18, 2012 via Certified, Restricted Delivery, Mail. The Defendant acknowledged receipt of the hearing notice by signing the Certified Return Receipt on June 20, 2012.

- 3) The hearing convened as scheduled on August 9, 2012 at 9:00 a.m., and as of 9:15 a.m., the Defendant failed to appear. 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) The Department contends that the Defendant intentionally violated SNAP regulations by withholding information about his [REDACTED] pension income. The Department presented DHS-5 (case comments documented by the worker on 10/19/10) and DHS-6 (telephone SNAP review – DFA-SNAP-10) completed by the Defendant. The Department noted that the Defendant only reported \$936.50 per month in Social Security income to the worker during the October 19, 2010 SNAP review. Included in Exhibit DHS-6 is a Combined Application and Review Form (CAF) and the Rights and Responsibilities (DFA-RR-1) completed and signed by the Defendant on October 12, 2011. It was noted by the Department that the only monthly income reported by the Defendant was Social Security.
- 5) Exhibit DHS-7 includes a response from the [REDACTED] Pension that verifies the Defendant has been receiving retirement benefits since April 2010 and he is currently receiving \$768 per month.
- 6) The Department submitted Exhibits DHS-2, DHS-3 and DHS-4 to show that by withholding information about his monthly pension benefits, the Defendant received \$2,270 in SNAP benefits during the period November 2010 through January 2012 to which he was not legally entitled.
- 7) By signing the CAFs on the date of application/review, the Defendant agreed to the following:

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.

- 8) The Rights and Responsibilities forms completed and signed by the Defendant on the dates of SNAP application/review include the following statement:

I understand if I am found (by court action or an administrative disqualification hearing) to have committed an act of intentional program violation, I will not receive Food Stamp 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.

By signing the Rights and Responsibilities, the Defendant certified that he read, understood, and accepted the rights and responsibilities, and that all of the information he provided was true and correct.

- 9) West Virginia Income Maintenance Manual, Chapter 1.2 (E):

The client's responsibility is 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, Chapter 2.2.B states that all SNAP AGs must report changes related to eligibility and benefit amount at application and redetermination.

- 11) West Virginia Income Maintenance Manual, Chapter 20.2:

When an AG (assistance group) has been issued more Food Stamps than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation or Intentional Program Violation claim. The claim is the difference between the allotment the client received and the allotment he should have received.

- 12) West Virginia Income Maintenance Manual, Chapter 20.2 (C) (2):

Once an IPV (Intentional Program Violation) is established a disqualification penalty is imposed on the AG (assistance group) members who committed the IPV. The penalties are as follows: (Chapter 9.1, A, 2, h) 1st Offense: 1 year (Disqualification)

- 13) West Virginia Department of Health and Human Resources, Common Chapters Manual §740.11.D:

Intentional Program Violation - For the purpose of determining through an Administrative Disqualification Hearing whether or not a person has committed an Intentional Program Violation, the following criteria will be used. Intentional Program Violation 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.

VIII. CONCLUSIONS OF LAW:

- 1) The regulations that govern SNAP benefits state that a SNAP violation has occurred when an individual intentionally made a false or misleading statement, or misrepresented, concealed or

withheld facts relating to the use, presentation, transfer, acquisition, receipt or possession of SNAP/Food Stamp benefits.

- 2) Evidence reveals that the Defendant withheld, or provided false and misleading, information about his monthly income in order to receive SNAP benefits to which he was not legally entitled. This clearly establishes intent.
- 3) The evidence is clear and convincing that the Defendant intentionally committed a SNAP violation as defined in the regulations.
- 4) In accordance with SNAP regulations, an Intentional Program Violation has been committed and a disqualification penalty must be applied. The disqualification for a first time offense is 12 months (one year).
- 5) Only the Defendant is subject to this disqualification. The one-year disqualification will begin effective September 1, 2012.

IX. DECISION:

The Department's proposal to apply a SNAP disqualification is **upheld**. The disqualification period will begin effective September 1, 2012.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ Day of August 2012.

**Thomas E. Arnett
State Hearing Officer**