



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 2, 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 July 31, 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, the 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 period of 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 supports that you intentionally provided false information about your household's circumstances in order to receive SNAP benefits for which you were not entitled.

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 the determination that you committed an Intentional Program Violation. Your disqualification penalty period will begin September 1, 2012.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review / Tammy Hollandsworth, Webster DHHR

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

IN RE: -----,

Defendant,

v.

ACTION NO.: 12-BOR-1416

**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 July 31, 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:

Tammy Hollandsworth, 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 (IPV) 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 Hearing Summary – IG-BR-31
- M-2 [SNAP] Claim Determination form and supporting documentation
- M-3 [SNAP] Calculation Sheets
- M-4 RAPIDS computer system screen showing SNAP disbursements – [IQFS]
- M-5 RAPIDS computer system screens showing allotment determination
- M-6 RAPIDS computer system screen showing case member history
- M-7 RAPIDS computer system screens showing case comments
- M-8 Copy of verification of shelter obligation provided by Defendant
- M-9 Copy of verification of shelter obligation in form of Deed of Trust document
- M-10 SNAP review form and Rights and Responsibilities form dated July 29, 2011
- M-11 Copy of appointment notice sent to Defendant dated May 24, 2012
- M-12 Copy of Notification of Intent to Disqualify form sent to Defendant dated May 24, 2012
- M-13 Copy of Waiver of Administrative Disqualification Hearing form dated May 24, 2012
- M-14 West Virginia (WV) Income Maintenance Manual Section 1.2.E
- M-15 WV Income Maintenance Manual Section 20.1 and 20.2
- M-16 WV Income Maintenance Manual Section 20.6
- M-17 Code of Federal Regulations §7 CFR 273.16
- M-18 Signed Waiver of Administrative Disqualification Hearing from -----
- M-19 Purported letter from Defendant to ----- dated June 7, 2012

VII. FINDINGS OF FACT:

- 1) The Board of Review received a request for an ADH from the West Virginia Department of Health and Human Resources (Department) on June 11, 2012. The Department contends that the Defendant has committed an IPV and made fraudulent statements or misrepresentations regarding her household composition and rent/mortgage obligation in order to receive SNAP benefits, and recommends that she be disqualified from participation in SNAP for a period of one (1) year.

- 2) Notification of the July 31, 2012 hearing was mailed to the Defendant on or about June 21, 2012, via first class mail delivery, as the Defendant is a current recipient of benefits from the Department and resides at an address known to be valid by the Department.
- 3) The hearing was convened as scheduled at 1:00 P.M., and as of 1:24 P.M., the Defendant failed to appear or notify the Board of Review of any conflict preventing her from appearing. As set forth in Code of Federal Regulations 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 reported incorrect household composition for her SNAP household during her July 29, 2011 redetermination interview by withholding information that ----- lived in her home. ----- is known to receive disability benefits from the Social Security Administration. The Department also contends that the Defendant provided false verification of her shelter obligation during this same redetermination interview.
- 5) The Department presented evidence which supports that the Defendant completed a SNAP review interview (M-10) on or about July 29, 2011, at which time she did not report that ----- (biological father of -----' children) was living in her home. She reported that she lived in the home with ----- and -----' two (2) children. There is no known blood relationship between ----- and the Defendant. She also reported that she was responsible for paying \$800.00 monthly to her landlord, ----- . She provided as verification (M-8) one (1) page from a Residential Lease Agreement, dated July 3, 2011, which indicates that she rents property from ----- at -----, West Virginia, in the amount of \$800.00 monthly. The tenants are listed on the document as the Defendant and ----- . The Defendant signed the SNAP review application form (M-10) indicating that she understood her responsibility to report accurate and truthful information and the penalties for failure to do so. She also signed the Rights and Responsibilities form (M-10) further certifying that she understood her responsibility to report accurate and truthful information.
- 6) Also in Department's Exhibit M-8 is a copy of an email communication dated October 7, 2011, between someone named ----- (listed as office manager for -----) and the Defendant, in which ----- informs the Defendant that her rent will be increasing to \$1100.00 monthly beginning October 2011.
- 7) The Department's representative, Tammy Hollandsworth, is a State Repayment Investigator for the Department's ----- County Office. She stated that the Department obtained from the actual property owner a copy of a Deed of Trust Agreement from Mountain State Land Title Company (M-9) dated May 31, 2011, between the Land Company and ----- and -----, for the purchase of the property on ----- Street. She added that ----- and ----- agreed to pay \$350.00 per month for the property in ----- County beginning July 1, 2011.
- 8) The Department presented additional evidence (M-18) and contends it shows that ----- was living in the Defendant's home at the time of the July 2011 review interview when the Defendant reported otherwise. ----- signed a Waiver of Administrative Disqualification

Hearing form (M-18) admitting that he reported living at a different address for the period of August 2011 through December 2011 when in fact he was living with the Defendant and paying \$350.00 per month on a Deed of Trust for that property. There is no admission from --- for his circumstances on the day of the Defendant's interview on July 31, 2012.

- 9) Ms. Hollandsworth testified that she received a copy of a letter (M-19) provided to the Department by ----- . The letter is addressed to ----- and she purportedly received the letter from the Defendant. The letter is signed "-----," and contains statements allegedly made by the Defendant. In the letter, the Defendant allegedly makes numerous admissions that she has lied to the Department. In comparing the letter to the known handwriting samples (M-10) of the Defendant, it is not clear that the letter (M-19) is authored by the Defendant. The handwriting is similar, but its authenticity is not clearly established; additionally, ----- was not available for testimony in regard to her receipt of the letter.
- 10) 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.
- 11) 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.
- 12) Common Chapters Manual 700, Appendix A, Section B, provides 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.
- 13) 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.
- 14) 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 state 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 clearly was aware of her responsibility to report truthful and accurate information and the penalties involved for failing to do so. She read and signed the July 2011 review application as well as Rights and Responsibilities forms which clearly informed her of these responsibilities.
- 4) The totality of the evidence supports clearly and convincingly that the Defendant intentionally reported during her July 2011 SNAP redetermination interview that her SNAP household was obligated to pay \$800.00 monthly as a shelter obligation, when the evidence shows her SNAP household was actually obligated to pay \$350.00 per month for shelter costs. She also provided false verification of the alleged \$800.00 shelter obligation.
- 5) Therefore, the Department was correct in its determination that the Defendant has committed an IPV by reporting false information about her household's shelter obligation.

IX. DECISION:

The Agency's proposal to apply a one (1) year Food Stamp disqualification penalty is **upheld**. The Defendant's disqualification 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 2nd Day of August 2012.

**Cheryl Henson
State Hearing Officer**