



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
203 E. Third Avenue
Williamson, WV 25661

Earl Ray Tomblin
Governor

Rocco S. Fucillo
Cabinet Secretary

October 5, 2012

Dear Ms. ----:

Attached is a copy of the Findings of Fact and Conclusions of Law on the Supplemental Nutrition Assistance Program (SNAP) Administrative Disqualification Hearing held August 28, 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 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.

An Intentional Program Violation consists of intentionally having 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. [WV Income Maintenance Manual Section 20.2.C.2 and 7 CFR Section 273.16 (c)]

Information submitted at the hearing reveals that you intentionally provided false and misleading information about your living arrangements 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 November 1, 2012.

Sincerely,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review
Christine Allen, Repayment Investigator

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

IN RE: ----,

Defendant,

v.

ACTION NO.: 12-BOR-1445

**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 Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. The hearing was convened on August 28, 2012, at the [REDACTED] County office of the WV DHHR in [REDACTED] WV.

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:

Christine Allen, Repayment Investigator, Department's Representative
Tammi Cooley, Department's Witness

Presiding at the Hearing was Stephen M. Baisden, State Hearing Officer and a member of the State Board of Review.

The Hearing officer placed both participants under oath at the beginning of the hearing.

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:

7 CFR §273.16 Code of Federal Regulations

Common Chapters Manual, Chapter 700

West Virginia Income Maintenance Manual: Chapter 1.2.E, Chapter 10.4.B.7, Chapter 20.1 and 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

M-1 IG-BR-31 Hearing Summary

M-2 ES-FS-5 SNAP Claim Determination sheet

M-3 IQFS Screen Print from RAPIDS system showing SNAP issuance history

M-4 EFAD Screen Print from RAPIDS showing SNAP allotment determination calculations for the months of January, February and March, 2012, for Defendant's SNAP benefits

M-5 ES-FS-5a SNAP calculation sheets showing corrected benefit amounts

M-6 AQCM Screen print from RAPIDS System showing case member history

M-7 CMCC Screen print from RAPIDS System showing Income Maintenance worker case comments made from January 6, 2012, through April 10, 2012, in Defendant's case

M-8 CMCC Screen print from RAPIDS System showing Income Maintenance worker case comments made from April 15, 2011, through March 12, 2012, in a separate case also under Defendant's name

M-9 IFM-FEFU-1, Front-End Fraud Unit (FEFU) Investigative Findings Report form, dated February 28, 2012

M-10 Copy of statement from Defendant's former roommate on February 27, 2012

M-11 Print-out from the WV Department of Motor Vehicles listing driver's license address information for Defendant and ----

M-12 Income verification from Veteran's Administration Regional Office for ----

M-13 Copy of Combined Application Form dated and signed by Defendant on January 6, 2012

M-14 Copy of Rights and Responsibilities Form dated and signed by Defendant on January 6, 2012

M-15 Copy of appointment letter (IFM-1-7d) sent to Defendant on April 30, 2012, asking her to meet with Repayment Investigator on May 16, 2012 to discuss the SNAP program violation

M-16 Copy of IFM-BR-44 Waiver of Administrative Disqualification Hearing form and IFM-BR-44a Notice of Intent to Disqualify form dated April 30, 2012

M-17 Copy of Income Maintenance Manual Chapter 1.2.E showing client responsibility for providing accurate information

- M-18 Copy of Income Maintenance Manual Chapter 9.1 showing SNAP eligibility determination groups
- M-19 Copy of Income Maintenance Manual Chapter 10.3.UUU showing that Social Security Retirement, Survivors and Disability benefits are counted as unearned income in the SNAP Program and Income Maintenance Manual Chapter 10.3.TTTT showing that Veteran's Benefits are counted as unearned income for SNAP eligibility
- M-20 Copy of Income Maintenance Manual Chapter 20.1 and 20.2 showing SNAP overpayment claims and repayment procedures
- M-21 Copy of the Code of Federal Regulations (CFR) §273.16 showing disqualifications for Intentional Program Violations

VII. FINDINGS OF FACT:

- 1) The Department is alleging an act of Intentional Program Violation, or IPV, in the Defendant's SNAP case because she allegedly reported during a SNAP application interview that she and her children lived with a friend and that she had no income, when in fact she lived with one of her children's father, who received monthly Social Security Retirement, Survivor's and Disability Insurance (RSDI) and monthly Veteran's Benefits.
- 2) Defendant was mailed notice of the Administrative Disqualification Hearing on July 9, 2012, by first class mail. The notice was sent to ----, ----. This is the address at which Defendant receives her public assistance benefits.
- 3) The hearing was scheduled for 10:00 a.m. on August 28, 2012, and as of 10:15 a.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 convened at 10:15 a.m., and was conducted without the Defendant in attendance.
- 4) On January 6, 2012, Defendant appeared at the WV Department of Health and Human Resources, [REDACTED] County office in [REDACTED] WV and completed an application for SNAP benefits. She reported at this interview that she lived with a friend, that this friend did not charge her any rent because she had no income, and that Defendant's mother paid the friend \$50 per month toward the electricity bill for the home. Defendant's monthly SNAP allotment was calculated on this basis. An Economic Service Worker (ESW) recorded on January 6, 2012, that Defendant completed the application and reported her living arrangements. (Exhibit M-7.) At the conclusion of the application interview, Defendant signed and dated a DFA-RFA-1, an application form which contained information she had given the worker during the interview. (Exhibit M-13.) She also signed and dated a DFA-RR-1, a Rights and Responsibilities form. (Exhibit M-11.) The application form signature page states,

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.

The DFA-RR-1, Rights and Responsibilities form is a list of applicants' rights and responsibilities for each program for which an applicant applies. The applicant signifies that he or she is aware of each right or responsibility by checking "Yes" or "No" at each item. Under the SNAP section of the form, item #4 states,

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

Under the "For All Programs" section of the form, item #47 states,

I . . . understand that if I give incorrect or false information or if I fail to report changes that I am required to report, I may be required to repay any benefits I receive and I also may be prosecuted for fraud.

Defendant has marked "Yes" at both of these items.

- 5) Department's Representative submitted into evidence case recordings made in a separate case, in which Defendant applied for WV WORKS cash assistance and Pregnant Person Medicaid. (Exhibit M-8.) These case recordings state that on April 21, 2011, Defendant reported to the Department that she was pregnant and living with the baby's father, ----. These recordings report that the Department denied Defendant's WV WORKS application and the case remained open only for Pregnant Person Medicaid. These recordings report that Defendant called the Department to report the birth of her baby on December 12, 2011; the baby had been born two days earlier.
- 6) Department's Witness, The Front-End Fraud (FEFU) worker who investigated this case, testified that she received a referral to investigate Defendant's Medicaid case after her baby was born in order to determine whether Defendant did or did not live with the baby's father. Department's Witness testified that she interviewed Defendant's former roommate on February 27, 2012. She testified that the roommate signed a statement on that date (Exhibit M-10) which reads as follows: "I am [former roommate] and have lived here . . . for 2 or 3 years. [Defendant] used to live here over a year ago. She lives with ---- on ----- up the road. She has lived with him since she got pregnant." Department's Witness stated that she submitted her investigation findings (Exhibit M-9) to the Department on February 28, 2012, and afterwards made a repayment referral to the Repayment Investigator.
- 7) Department's Representative submitted into evidence a print-out from the WV Department of Motor Vehicles (DMV) (Exhibit M-11) which indicated Defendant had obtained a non-driving identification card from the DMV. On this card, her mailing

address was listed as ----, ----. The print-out also indicated ---- had a WV Driver's License, and the mailing address on it was the same. Department's Representative also submitted verification obtained from the Veteran's Administration Regional Office in Huntington, WV, that ---- received Veteran's Benefits in the amount of \$2,873 per month for February and March, 2012.

8) Department's Representative stated she completed a Food Stamp [SNAP] Claim Determination form, wherein she calculated that Defendant was overpaid SNAP benefits for the months of February and March, 2012, and that the amount of the overpayment was \$887. (Exhibit M-2.)

9) The Code of Federal Regulations, 7 CFR §273.16(c) (Exhibit M-21), defines an Intentional Program Violation (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 [SNAP] 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).

10) The West Virginia Income Maintenance Manual, Chapter 1.2.E (Exhibit M-17), states:

The client's responsibility is to provide information about his circumstances so the worker is able to make a correct decision about his eligibility . . . The client must be instructed that his failure to fulfill his obligation may result in one or more of the following actions: denial of the application; closure of the active AG [assistance group]; removal of the individual from the AG; repayment of benefits; reduction in benefits.

11) The West Virginia Income Maintenance Manual, Chapter 10.3.UUU (Exhibit M-15) states that Social Security RSDI benefits are counted as unearned income in the SNAP program. Income Maintenance Manual, Chapter 10.3.TTTT (Exhibit M-15, page 2) states that Veteran's Benefits are counted as unearned income in the SNAP program.

12) The West Virginia Income Maintenance Manual, Chapter 20.2.C.2 (Exhibit M-17), states:

IPV's include making false or misleading statements, misrepresentations, concealing or withholding information, and committing any act that violates the Food Stamp Act of 1977, Food Stamp [SNAP] regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of SNAP benefits.

13) The West Virginia Income Maintenance Manual, Chapter 20.6.A states:

A willfully false statement is one that is deliberately given, with the intent that it be accepted as true, and with the knowledge that it is false. [I]t is not essential that an affirmative representation be made. Misrepresentation may also be the suppression of what is true, as well as in the representation of what is false.

VIII. CONCLUSIONS OF LAW:

The Department has established that the Defendant made a willful (or intentional) false statement to the effect that she lived with a friend and had no income during a SNAP application on January 6, 2012, when she lived with her baby's father, who received RSDI and Veteran's Benefits. She signed an application form to that effect, and she signed a Rights and Responsibilities form indicating she was aware of her responsibility to provide complete and accurate information and of the penalties for not doing so.

IX. DECISION:

Failing to report that a person lives with the parent of his or her child or children and failing to report the other parent's income during a SNAP application or review is 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 effective November 1, 2012.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 5th Day of October, 2012.

**Stephen M. Baisden
State Hearing Officer**