



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

September 7, 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 28, 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 October 1, 2012.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Leonard Madia, Repayment Supervisor, WVDHHR

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

-----,

Defendant,

v.

Action Number: 12-BOR-1497

**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 telephonically on August 28, 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:

Leonard Madia, Repayment Supervisor, 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 and 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Benefit Recovery Referral sent to Investigations and Fraud Management (IFM)
- D-2 Notification of Intent to Disqualify (IG-BR-44) and Waiver of Administrative Disqualification Hearing (IG-BR-44a) dated 1/27/12
- D-3 7 CFR § 273.16 USDA Code of Federal Regulations
- D-4 Eligibility review completed through WV INROADS - Medicaid for Children and Pregnant Women and WVCHIP dated 2/1/11
- D-5 Combined Application and Review Form (CAF), Request for Assistance, and Rights and Responsibilities – signed by ----- on 3/29/11
- D-6 Application for Low Income Energy Assistance Program (LIEAP) – signed by ----- on 3/31/11
- D-7 Questionnaire concerning ----- – signed by ----- on 7/18/11
- D-8 Rental Agreement for 1/15/11 through 7/15/11
- D-9 Written statement from ----- dated 7/17/11 with a copy of cancelled checks and receipts verifying rental payment
- D-10 Food Stamp (SNAP) Claim Determination for March 2011 through June 2011
- D-11 West Virginia Income Maintenance Manual Chapter 1.2
- D-12 West Virginia Income Maintenance Manual Chapter 2.2.B
- D-13 West Virginia Income Maintenance Manual Chapter 2.2.B.4
- D-14 West Virginia Income Maintenance Manual Chapter 20.2

VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from the Investigation and Fraud Management (IFM) unit on June 21, 2012. Leonard Madia, representing the Department of Health and Human Resources (Department), contends that the Defendant has committed an Intentional Program Violation (IPV), and therefore, is recommending 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 28, 2012, hearing was mailed to the Defendant on July 5, 2012, via Certified, Restricted Delivery, U.S. Mail. The Defendant acknowledged receipt of the hearing notice by signing the Certified Return Receipt on July 9, 2012.

- 3) The hearing convened as scheduled on August 28, 2012, at 12 p.m., and as of 12:15 p.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 contended that the Defendant intentionally violated SNAP regulations by withholding information about household income. The referral received by the Department alleged that the Defendant and her family were living in half of a duplex, while renting the other half to ----- . The Department secured information (Exhibits D-7, D-8 and D-9) confirming that the Defendant's household was receiving \$600 per month in rental income from ----- during the period January 15, 2011, through July 15, 2011.
- 5) Exhibit D-4 (WV INROADS Medicaid Review) was completed by the Defendant on February 1, 2011. In this document, the Defendant reported employment income, but denied receipt of rental income under the section entitled "Additional Household Information." Evidence further reveals that the Defendant completed a SNAP review (Exhibit D-5) in the Department's local office on March 29, 2011. The Defendant reported employment and child support income, but withheld information regarding rental income. On March 31, 2011, the Defendant completed an application for benefits through the Low Income Energy Assistance Program (LIEAP), Exhibit D-6, and while employment and child support income were reported, rental income was again withheld.
- 6) The Department submitted Exhibit-10 to show that by withholding information about household (rental) income, the Defendant received \$986 in SNAP benefits during the period March 2011 through June 2011 to which she was not legally entitled.
- 7) The Defendant e-signed (electronically signed) Exhibit D-4 (WV INROADS application on February 1, 2011) certifying that all the statements on the form had been read by her or to her and that she understood the questions. She further certified that all the information provided is true and correct and that she accepted the responsibilities therein.
- 8) By signing the CAF 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.

- 9) The Rights and Responsibilities form completed and signed by the Defendant on the date of SNAP application/review includes 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 she read, understood, and accepted the rights and responsibilities, and that all of the information she provided was true and correct.

- 10) The Defendant signed her March 31, 2011 LIEAP application (Exhibit D-6) certifying that she read, or had read to her, all the statements on this form and acknowledged she understood the questions. She further certified that all the information provided was true and correct to the best of her knowledge.

- 11) 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.

- 12) 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.

- 13) 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.

- 14) 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)

- 15) 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 has 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 her monthly household income in order to receive SNAP benefits to which she 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 offense is 12 months (one year).
- 5) Only the Defendant is subject to this disqualification. The one-year disqualification will begin effective October 1, 2012.

IX. DECISION:

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

**Thomas E. Arnett
State Hearing Officer**