



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 23, 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 August 23, 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 October 1, 2012.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review / Jennifer Butcher, Kanawha DHHR

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

IN RE: -----,

Defendant,

v.

ACTION NO.: 12-BOR-1560

**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 August 23, 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:

Jennifer Butcher, 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 Telephone Complaint Guide form dated November 9, 2011
- M-2 Excerpt from West Virginia (WV) Income Maintenance Manual §1.2
- M-3 Code of Federal Regulations §7 CFR 273.16
- M-4 Combined Application and Review form dated October 29, 2010, Rights and Responsibilities form, supporting documentation
- M-5 Case Comments from Department's computer system dated January 3, 2011
- M-6 Combined Application and Review form dated May 27, 2011, Rights and Responsibilities form, supporting documentation
- M-7 Combined Application and Review form dated October 31, 2011, Rights and Responsibilities form, supporting documentation
- M-8 November 21, 2011 Interstate Paternity Acknowledgement Certification Transmission (IPACT) for marriages, Electric bill dated December 2, 2011, Postal Address verification, Driver History Inquiry printouts, Vehicle Master Inquiry printout
- M-9 Excerpt from WV Income Maintenance Manual §2.2
- M-10 Excerpt from WV Income Maintenance Manual §2.2.B
- M-11 Excerpt from WV Income Maintenance Manual §2.2
- M-12 Food Stamp (SNAP) Claim Determination forms and supporting documentation
- M-13 Excerpt from WV Income Maintenance Manual §20.6
- M-14 Notification of Intent to Disqualify form letter to Defendant dated June 13, 2012
- M-15 Excerpt from WV Income Maintenance Manual §20.2
- M-16 Excerpt from WV Income Maintenance Manual §20.2
- M-17 Excerpt from WV Income Maintenance Manual §20.2

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 27, 2012. The Department contends that the Defendant has committed an IPV and made fraudulent statements or misrepresentations

regarding her household composition 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 August 23, 2012 hearing was mailed to the Defendant on or about July 5, 2012, via registered mail, with restricted delivery. The Defendant signed for the notification on July 7, 2012.
- 3) The hearing was convened as scheduled at 9:00 A.M., and as of 9:49 A.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 October 29, 2010 redetermination interview (M-4) by withholding information that she was married to -----, and that he lived in her home. ----- is known to be employed (M-8) with “-----” and receiving regular earned income from his job during this period of time. The Defendant signed the application form (M-4) indicating she understood her responsibility to report accurate and truthful information. She also signed the Rights and Responsibilities form (M-8) further certifying her understanding of this responsibility and the penalties involved for failure to do so. The Department’s case comments (M-5) show that the Defendant reported the birth of a child, -----, on January 3, 2011; she did not report the marriage at this time.
- 5) The Department also contends that the Defendant withheld information about her marriage and household composition during her May 27, 2011 redetermination interview (M-6) by not reporting ----- as a member of her household. She signed the application and Rights and Responsibilities form (M-6) certifying she understood her responsibility to report accurate and truthful information and the penalties for failure to do so. She did not report her marriage or that ----- was a member of her household.
- 6) The Department also contends that the Defendant withheld information about her marriage and household composition during her October 31, 2011 redetermination interview. She signed the application and Rights and Responsibilities form (M-7) on that date and did not report her marriage or that ----- was living in her household.
- 7) The Department conducted an investigation during November 2011 and found (M-8) that the Defendant married ----- on September 18, 2010. Records (M-8) from the IPACT system verify the marriage. The Department also presented as evidence (M-8) an electric bill dated December 2, 2011, in -----’s name, which shows the same address as the Defendant’s reported address of -----, West Virginia. Additionally, the Department presented a postal address verification dated December 2011 which shows that both the Defendant and ----- receive mail at that address; Department of Motor Vehicle (DMV) records (M-8) show that ----- listed that address on his driver history record on July 25, 2011; DMV records show ----- titled a vehicle in his name on June 28, 2011 utilizing the ----- address; DMV records show ----- titled a vehicle in his name at the ----- address on May 31, 2007; -----’s records show that ----- has been employed with the company since March 2000, and that he lists his current address as of

December 28, 2011, as the ----- address. The company's records indicate ----- received regular pay during the period in question.

- 8) 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.
- 9) 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.

- 10) 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.
- 11) 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.
- 12) 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 numerous applications 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 withheld the fact that she was married and living with ----- during numerous interviews with the Department during the period in question. She reported the birth of her child, but did not report that she married the child's father and that he lived in the household. ----- was gainfully employed during the period and his income was not counted.
- 5) Therefore, the Department was correct in its determination that the Defendant has committed an IPV by reporting false information about her household's composition.

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 October 1, 2012.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 23rd Day of August 2012.

**Cheryl Henson
State Hearing Officer**