



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P.O. Box 1736
Romney, WV 26757

Earl Ray Tomblin
Governor

Rocco S. Fucillo
Cabinet Secretary

August 31, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your Supplemental Nutrition Assistance Program Administrative Disqualification Hearing held August 23, 2012. The purpose of this hearing was to determine whether or not you committed an Intentional Program Violation.

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 is based on current policy and regulations. These regulations provide that 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).

The information submitted at your hearing revealed that you intentionally provided false information concerning your household composition in order to receive SNAP benefits for which you were not 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,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

cc: Erika Young-Chairman, Board of Review
Andrew LaCara-Repayment Investigator

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

IN RE: -----,

Defendant,

v.

ACTION NO.: 12-BOR-1609

**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. This hearing 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:

Andrew LaCara, Repayment Investigator

Presiding at the hearing was Eric L. Phillips, State Hearing Officer and a member of the Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Defendant committed an Intentional Program Violation and should be disqualified for one year from participation in the Supplemental Nutrition Assistance Program or SNAP.

V. APPLICABLE POLICY:

Code of Federal Regulations, 7 CFR § 273.16
Common Chapters Manual, Chapter 700
West Virginia Income Maintenance Manual, Chapter 20.2; Chapter 9.1.A.2.h

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 WV INROADS Application for SNAP benefits dated March 7, 2012
- D-2 Computer printout of case comments from March 12, 2012
- D-3 Written Statement from -----dated April 24, 2012
- D-4 Employee Payroll Information for -----
- D-5 Employment Information for ----- from ---- ----, Inc.
- D-6 Division of Motor Vehicles Driver History Inquiry
- D-7 Division of Motor Vehicles Vehicle System Inquiry
- D-8 Employment Information for ----- from ---- ---, Inc.
- D-9 Food Stamp Claim Determination for March 7, 2012 to May 2012
- D-10 Notification of Intent to Disqualify dated June 18, 2012
- D-11 Waiver of Administrative Disqualification Hearing dated June 24, 2012
- D-12 Hearing Request dated June 27, 2012
- D-13 West Virginia Income Maintenance Manual Chapter 1.2, 2.2, and 9.1
- D-14 West Virginia Income Maintenance Manual Chapter 20.2, and Common Chapters 740.11

VII. FINDINGS OF FACT:

- 1) On July 3, 2012, a request for an Administrative Disqualification Hearing was received by the Board of Review from the Department's Repayment Investigator, Andrew LaCara (Investigator LaCara). Investigator LaCara contends that the Defendant committed an Intentional Program Violation (IPV) and recommends that she be disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP) for a twelve (12) month period.
- 2) On June 24, 2012, the Defendant exercised her right to an administrative hearing (Exhibit D-11). A Notice of Scheduled Hearing was issued to the Defendant on July 18, 2012, via certified restricted mail delivery, to her address of -----, West Virginia. A return receipt documents that the Defendant received this notice of July 20, 2012.
- 3) The hearing convened as scheduled at 11:00 A.M., on the requested date, and as of 11:15 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 providing false statements concerning her household composition (Exhibit D-10). Investigator LaCara testified that the Defendant submitted an electronic INROADS application for SNAP benefits on March 7, 2012 (Exhibit D-1), and completed a subsequent interview for benefits on March 12, 2012. During the application process, the Defendant reported that her household consisted of herself and her two children and reported her address to be -----, West Virginia.
- 5) Investigator LaCara testified that the Department became aware that -----, the Defendant's ex-husband and father of her children, resided with the Defendant at the time of the SNAP application.
- 6) Investigator LaCara provided a sworn written statement (Exhibit D-3) from the Defendant's next door neighbor and mother dated April 24, 2012, which documents that the Defendant's household consisted of the Defendant, -----, and their two children. Additionally, the written statement documents that ----- had relocated to the residence a year prior.
- 7) Investigator LaCara provided ----- employment records from ---- ----, Inc., (Exhibit D-4 and D-5) which documents his physical address of -----, West Virginia, the same address as the Defendant.
- 8) Investigator LaCara provided records from the Division of Motor Vehicles (Exhibit D-6 and D-7) which documents -----' address as -----, West Virginia.
- 9) Investigator LaCara testified that -----' monthly income from ---- ---- Inc. coupled with the Defendant's monthly income from ---- ----, ----, resulted in the household exceeding the monthly gross income limit for SNAP assistance of \$2422.00. The Defendant's SNAP assistance was subsequently terminated effective May 31, 2012.
- 10) Investigator LaCara presented a Food Stamp Claim Determination (Exhibit D-9) to demonstrate that by providing false information concerning her household member's residency and income, an overpayment of SNAP benefits was issued to the Defendant in the amount of \$1226.00 for the months of March 2012 to May 2012.
- 11) The Defendant electronically signed and completed the Rights and Responsibilities (Exhibit D-1) portion of the recertification application and specifically acknowledged the following statements:

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 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.

I certify that all statements on this form have been read by me or read to me and that I understand them. I certify that all information I have given is true and correct and I accept these responsibilities.

By electronically signing the document, the Defendant acknowledged that all information provided during the recertification was true and correct and she accepted the corresponding responsibilities.

12) West Virginia Income Maintenance Manual Chapter 1.2 indicates:

The client's responsibility is to provide information about his circumstances so the Worker is able to make a correct decision about his eligibility.

13) West Virginia Income Maintenance Manual, Chapter 9.1 indicates:

Persons who have been found guilty of an IPV are disqualified as follows:

- 1st Offense: 1 Year
- 2nd Offense: 2 Years
- 3rd Offense: Permanent

14) Common Chapters Manual 740.11.D states as follows:

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.

15) Common Chapters Manual 740.22 states as follows:

Decision – The Hearing Officer shall base the determination of Intentional Program Violation on clear and convincing evidence that demonstrates that the defendant committed, and intended to commit, Intentional Program Violation as defined in Section 740.11 of this Chapter. The Hearing Officer shall weigh the evidence and testimony presented and render a decision based solely on proper evidence given at the hearing. In rendering a decision, the Hearing Officer shall consider all applicable policies of the Department, state and federal statutes, rules or regulations, and court orders. The decision shall include reference to all pertinent law or policy. If the Hearing Officer rules that the defendant committed an Intentional Program Violation, he or she will include the length and the beginning date of the disqualification penalty.

VIII. CONCLUSIONS OF LAW:

- 1) The policy and regulations that govern SNAP benefits specify that a program violation has occurred when an individual intentionally makes a false or misleading statement, or misrepresented, concealed or withheld 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) Evidence is clear that the Defendant misrepresented her living situation and household composition at the time of her SNAP application. Evidence is clear that the ----- shared the same address and resided in the same household with the Defendant in March 2012. The Defendant's action to provide incorrect information concerning her household composition and income establishes intent to mislead the Department.
- 4) In accordance with SNAP policy and regulations, an IPV has been committed and a disqualification penalty must be applied. The disqualification penalty for a first offense is one (1) year.
- 5) The Defendant is the only assistance group member subject to said disqualification penalty. The one year disqualification penalty will begin October 1, 2012.

IX. DECISION:

Intentionally making a false or misleading statement or misrepresenting facts to secure SNAP benefits constitutes a clear violation of the regulations. Based on the evidence presented, I find the violation intentional.

The Department's proposal to apply a twelve (12) month disqualification penalty is upheld.

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.

Eric L. Phillips
State Hearing Officer