



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 27, 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 September 25, 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 November 1, 2012.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Lori Woodward, RI, WVDHHR

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

-----,

Defendant,

v.

Action Number: 12-BOR-1744

**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 September 25, 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:

-----, Defendant

Lori Woodward, Repayment Investigator (RI), 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 & 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Benefit Recovery Referral – referral date 9/13/11
- D-2 Notification of Intent to Disqualify (IG-BR-44) and Waiver of Administrative Disqualification Hearing (IG-BR-44a)
- D-3 7 CFR § 273.16 USDA Code of Federal Regulations
- D-4 Notice of Decision dated 9/14/10
- D-5 Supplemental Nutrition Assistance Program (SNAP) 12 Month Contact – received 1/3/11
- D-6 Qualified Medicare Beneficiaries (QMB), Specified Low Income Medicare Beneficiaries (SLIMB), Qualified Individuals (QI-1) form – signed by Defendant on 1/12/11
- D-7 Residential Lease dated 8/17/10
- D-8 Checks from ----- paid to Defendant for care of ----- for the period of August 2010 through April 2011.
- D-9 Food Stamp (SNAP) Claim Determination for the period of November 2010 through May 2011
- D-10 West Virginia Income Maintenance Manual Chapter 1.2
- D-11 West Virginia Income Maintenance Manual Chapter 2.2.B
- D-12 West Virginia Income Maintenance Manual Chapter 2.2.B.4
- D-13 West Virginia Income Maintenance Manual Chapter 20.2.C.2
- D-14 Common Chapters Manual §740.11

VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from Repayment Investigator Lori Woodward on July 20, 2012. Ms. Woodward, representing the Department of Health and Human Resources (Department), contends that the Defendant has committed an Intentional Program Violation (IPV), and therefore, she is recommending that 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. Exhibit D-2 was signed by the Defendant on June 23, 2012, indicating that she wished to proceed with an administrative hearing.
- 2) On September 13, 2011, the Defendant was an active recipient of SNAP benefits when the Department's repayment unit received a Benefit Recovery Referral (D-1), indicating the Defendant was receiving unreported income for providing personal care services for -----.

- 3) The Department contacted -----, ----- son, who provided a copy of a “Residential Lease” (see Exhibit D-7) made between the Defendant and ----- . The Residential Lease indicates that effective September 3, 2010, Tenant ----- will pay Landlord ----- \$1,200 per month, payable on the 3rd day of each month. The Residential Lease was signed on August 17, 2010, by the Defendant and -----, Attorney-in-Fact, for -----.
- 4) The Department presented Exhibit D-8, which includes a copy of cancelled checks written by -- ----, and cashed by the Defendant. The following payments received by the Defendant:
 - August 17, 2010 ----- \$500
 - September 3, 2010 --- \$1,200
 - October 3, 2010 ----- \$1,250
 - November 3, 2010 --- \$1,250
 - November 29, 2010 -- \$1,250
 - December 29, 2010 -- \$1,250
 - February 3, 2011 ----- \$1,050
 - March 3, 2011----- \$1,050
 - March 31, 2011----- \$1,050
 - April 2, 2011----- \$1,050
- 5) The Department submitted Exhibit D-4 to demonstrate that the Defendant was notified via a Notice of Decision on September 14, 2010, that a review of her eligibility resulted in a finding that her SNAP benefits would continue at \$367 per month, effective October 1, 2010. This notice goes on to advise the Defendant that the following is the list of individuals who are eligible for this benefit, and includes – ----- and ----- . The next paragraph states, in pertinent part - “You must contact this office and report if your total household income increases to more than \$1,579 per month.”
- 6) The Department submitted Exhibit D-5, a Supplemental Nutrition Assistance Program (SNAP) 12 Month Contact, returned by the Defendant on January 3, 2011. The Department noted that the only income reported in this document is \$515 per month in Social Security benefits received by -----.
- 7) Exhibit D-6, a Medical Assistance Redetermination form for the Defendant, was completed and signed by the Defendant on January 12, 2011. The Department noted that while the Claimant indicated “yes” that she receives Social Security Income, she did not report the monthly amount, and more importantly, the Defendant marked “no” when replying to whether or not she had employment income.
- 8) The Defendant testified that she believed the SNAP benefits were only for her son, -----, and that she was not included in the benefits. She stated that the Social Security Administration told her that the benefits were only for him, as there is no way she could feed a child appropriately for \$367 a month. The Defendant further reported that ----- was only going to be in her household for a short-term stay and numerous expenses were paid from the monthly pay she received for the care of -----.
- 9) The Department noted that ----- is under the age of 22, and residing with his mother. Pursuant to SNAP policy, a child under the age of 22 must be included in the same Assistance Group

(AG) as his parent(s). Therefore, both of AG member's income must be included. The Department noted that while the Defendant alleged she did not report her income in the SNAP review (D-5) because she thought it was only for -----, the Defendant also withheld information regarding her employment income when she completed her Medicaid review (D-6).

- 10) Exhibit D-9, Food Stamp (SNAP) Claim Determination, was submitted to show that by withholding information about the income she was receiving for providing care to -----, the Defendant received \$2,479 in SNAP benefits during the period of November 2010 through May 2001 to which she was not legally entitled.
- 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) 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 employment income. The Defendant was notified in September 2010 regarding continued eligibility for SNAP, and advised that she was required to report household income if it exceeded \$1,579 per month. While the Defendant indicated she did not include her income on the SNAP 12-month contract that she thought included only her son, evidence reveals that she also failed to report employment income for Medicaid benefits that included only her. 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-time offense is 12 months (one year).
- 5) Only the Defendant is subject to this disqualification. The one-year disqualification will begin effective November 2012.

IX. DECISION:

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