



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Earl Ray Tomblin
Governor

Rocco S. Fucillo
Cabinet Secretary

October 24, 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 October 10, 2012, to determine 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.

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, 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 time determined by the number of previous Intentional Program Violation disqualifications. (West Virginia Income Maintenance Manual Section 20.2 and Code of Federal Regulations-7 CFR Section 273.16)

Information submitted at the hearing reveals that you withheld your husband's employment income information - and received \$1,872 in SNAP benefits to which you were not legally entitled - for the period of April 2011 through August 2011.

It is the decision of the State Hearing Officer that you committed an Intentional Program Violation and a 12-month disqualification penalty will be applied. The disqualification period will begin in December 2012.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Rebecca Pancake, Repayment Investigator, WVDHHR

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

IN RE: ----,

Defendant,

v.

ACTION NO.: 12-BOR-1898

**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 conducted telephonically on October 10, 2012, in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources (WVDHHR).

All persons giving testimony were placed under oath.

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 an EBT card to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

III. PARTICIPANTS:

Rebecca Pancake, Repayment Investigator, WVDHHR

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

It should be noted that the Defendant failed to appear for the hearing, despite having been issued timely notice via U.S. Mail. The hearing convened as scheduled on October 10, 2012, at 10 a.m., and as of 10:15 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.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Defendant committed an Intentional Program Violation and should be disqualified from participation in the Supplemental Nutrition Assistance Program for a period of 12 months.

V. APPLICABLE POLICY:

7 CFR Sections 273.16, USDA Code of Federal Regulations
WVDHHR Common Chapters Manual Section 740.11.D
West Virginia Income Maintenance Manual Sections 1.2.E, 10.3.DD, 20.2 and 20.2.C.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Combined Application and Review Form signed by Defendant on March 22, 2011
- D-2 Employee Wage Data for -----
- D-3 Employment Data for ----- provided by ----
- D-4 West Virginia Income Maintenance Manual Section 1.2.E
- D-5 West Virginia Income Maintenance Manual Section 2.2.B
- D-6 West Virginia Income Maintenance Manual Section 20.6
- D-7 West Virginia Income Maintenance Manual Section 20.2.C
- D-8 West Virginia Income Maintenance Manual Section 20.2.E
- D-9 Code of Federal Regulations Section 273.16
- D-10 Food Stamp Allotment Determination and Calculation Sheets for period of April 2011- August 2011
- D-11 Food and Nutrition Service Electronic Disqualification Recipient System information

D-12 Hearing/Grievance Request Notification, Request for an Administrative Disqualification Hearing, Notification of Intent to Disqualify and Waiver of Administrative Disqualification Hearing

VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing (D-12) was received by the Board of Review from WVDHHR Repayment Investigator Rebecca Pancake on August 2, 2012. The Repayment Investigator contends that the Defendant committed an Intentional Program Violation and recommends that she be disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, for a period of 12 months.
- 2) Investigator Pancake testified that the Department's Investigation and Fraud Management Unit received a referral alleging that the Defendant withheld information concerning her husband's earned income during a SNAP redetermination completed on March 22, 2011 (D-1). Investigator Pancake provided evidence to demonstrate that the Defendant's husband, -----, had been working for ----, as verified in Exhibits D-2 and D-3, since October 15, 2010. Because the Defendant had only reported that her husband received income from odd jobs during the SNAP review - and failed to report his employment at ---- - Investigator Pancake contends that the Defendant's Assistance Group received \$1,872 in SNAP benefits to which it was not entitled for the period of April 2011 through August 2011 (D-10).

The Defendant was sent a Notification of Intent to Disqualify (D-12) and a Waiver of Administrative Disqualification Hearing (D-12) on June 13, 2012.

- 3) West Virginia Income Maintenance Manual Section 1.2.E (D-4) states that it is the client's responsibility to provide information about his/her circumstances so the worker is able to make a correct decision about his or her eligibility.
- 4) West Virginia Income Maintenance Manual Section 10.3.DD states that employment earnings are a countable source of income for the SNAP.
- 5) West Virginia Income Maintenance Manual Section 20.2:

When an AG (Assistance Group) has been issued more SNAP benefits 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.

6) West Virginia Income Maintenance Manual Section 20.2.C.2 (D-7):

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

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: (Section 9.1A, 2, h) 1st Offense: 1 year (Disqualification).

- 7) WVDHHR Common Chapters Manual Section 740.11.D provides that an 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 relating to the use, presentation, transfer, acquisition, receipt or possession of Food Stamp benefits.

VIII. CONCLUSIONS OF LAW:

- 1) Policy states that when an Assistance Group has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation or Intentional Program Violation claim. If it is determined that an Intentional Program Violation has been committed, an appropriate disqualification penalty is imposed.
- 2) The Department presented evidence to demonstrate that the Defendant withheld information concerning her husband's employment income during her March 2011 SNAP redetermination, even though he had been working at ---- since October 15, 2010.
- 3) Based on information provided during the hearing, the Department has correctly proposed the imposition of a 12-month SNAP disqualification penalty based on the commission of an Intentional Program Violation.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's proposal to impose an Intentional Program Violation penalty and disqualify the Defendant from the SNAP for a period

of 12 months. Only the Defendant is subject to the penalty. The disqualification period will begin in December 2012.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 24th Day October 2012.

**Pamela L. Hinzman
State Hearing Officer**