



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

October 1, 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 September 27, 2012, for the purpose of determining whether you committed an Intentional Program Violation (IPV).

In arriving at a decision, the Deputy Director 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 Deputy Director 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 November 1, 2012.

Sincerely,

Cheryl Henson
Deputy Director, Board of Review

cc: Erika H. Young, Chairman, Board of Review / Natasha Jemerison, Kanawha DHHR

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

IN RE: -----,

Defendant,

v.

ACTION NO.: 12-BOR-1943

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Movant.

DECISION OF DEPUTY DIRECTOR

I. INTRODUCTION:

This is a report of the Deputy Director 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 September 27, 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:

Natasha Jemerison, Department representative

Presiding at the Hearing was Cheryl Henson, Deputy Director for the 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 Benefit Recovery Referral
- M-2 Excerpt from West Virginia (WV) Income Maintenance Manual §1.2
- M-3 [SNAP] Claim Determination forms
- M-4 Code of Federal Regulations §7 CFR 273.16
- M-5 SNAP application dated June 27, 2011
- M-6 Rights and Responsibilities form dated June 27, 2011
- M-7 SNAP application dated December 22, 2011
- M-8 Rights and Responsibilities form dated December 22, 2011
- M-9 Two Sworn Written Statements dated March 19, 2012, and April 12, 2012
- M-10 Excerpt from WV Income Maintenance Manual §2.2.B
- M-11 Excerpt from WV Income Maintenance Manual §20.6
- M-12 Notification of Intent to Disqualify letter dated June 15, 2012

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 August 9, 2012. The Department contends that the Defendant has committed an IPV and made fraudulent statements or misrepresentations regarding her household composition and expenses 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 September 27, 2012 hearing was mailed to the Defendant on or about August 23, 2012, via first class mail delivery, as the Claimant is an active recipient of benefits and services from the Department at the same address.
- 3) The hearing was convened as scheduled at 3:00 PM, and as of 3:17 PM, 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 and expenses for her SNAP household during her June 27, 2011 SNAP application interview, and again during her December 22, 2011 SNAP application interview. Specifically, the Department contends that the Defendant did not live at the address she provided to the Department during the interviews, that her children did not live in her household, and that she does not have a rental obligation of \$550.00 per month as reported.
- 5) The Defendant applied (M-5) for SNAP benefits on June 27, 2011, at which time she reported that she lived at -----, West Virginia. She reported that her children, -----, -----, -----, and -----, lived with her, and she reported that she was paying \$500.00 rent and a gas expense. She signed the application (M-5) indicating she understood her obligation to provide accurate and truthful information. She also signed the Rights and Responsibilities form (M-6) further certifying she understood her obligation to provide accurate and truthful information and the penalties for failure to do so.
- 6) The Defendant applied (M-7) for SNAP benefits on December 22, 2011, at which time she again reported living at the ----- address. She also again reported that the same children were living with her, and she reported paying \$550.00 rent and that she was obligated to pay utilities. She signed the application indicating she understood her obligation to provide accurate and truthful information. She also signed the Rights and Responsibilities form (M-8) further certifying she understood her obligation to provide accurate and truthful information and the penalties for failure to do so.
- 7) The Department investigated and obtained sworn written statements from two individuals. The first witness statement was taken on March 19, 2012, from an individual living at the ----- address where the Defendant purported to be living. This individual stated that the Defendant is his wife's niece and that she does not currently live with them at the -----, West Virginia address. He stated that the Defendant was currently living at another address. He added that the Defendant came to his address in May 2011 and left three (3) of her children with him. He stated that the other child went to stay with her grandmother until the grandmother made her leave. He added, "Then she came here." He stated that he asked them to leave in December 2011 after Christmas because, "[Defendant] was arguing with the children." He stated that he was not sure if the children were with the Defendant now. This witness appears to corroborate the Defendant's statements that she was living at his address during the June 27, 2011, and December 22, 2011 SNAP application interviews. As to the rent and utility obligation, he stated that the Defendant "does not pay \$550.00 per month to stay here."
- 8) The Department's second witness statement was taken on April 12, 2012, from an individual who identified herself as the Defendant's ex-sister-in-law. She stated that the Defendant's children are living with her (Defendant) now, along with the reporter's ex-husband and her mother in a one bedroom apartment in -----, West Virginia. The reporter stated that the Defendant's children stayed with her (second witness) for about two (2) months. She did not elaborate on which two (2) months the children were living in her household.

9) 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.

10) 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.

11) 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.

12) 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.

13) 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 two applications as well as Rights and Responsibilities forms during the period in question which clearly informed her of these responsibilities.
- 4) The totality of the evidence supports clearly and convincingly that the Defendant intentionally and falsely reported that she paid \$550.00 rent while living at the -----, West Virginia address. As to the household composition, the evidence does not clearly show that the Defendant reported incorrectly that her children were living with her during the June 27, 2011 and December 22, 2011 application interviews. The first witness statement appears to corroborate the Defendant's reports in this regard. In the case of the second witness statement, the witness does not speak to the period of time in question.
- 5) Therefore, the Department was correct in its determination that the Defendant has committed an IPV by reporting false information about her household's rental obligation.

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 November 1, 2012.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 1st Day of October 2012.

**Cheryl Henson
Deputy Director**