



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL**

**Earl Ray Tomblin
Governor**

**Board of Review
2699 Park Avenue, Suite 100
Huntington, West Virginia 25704**

**Rocco S. Fucillo
Cabinet Secretary**

December 6, 2012

Dear Mr. ----:

Attached is a copy of the Findings of Fact and Conclusions of Law on the SNAP Administrative Disqualification Hearing held September 26, 2012, for the purpose of determining whether an Intentional Program Violation (IPV) was committed by you.

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, formerly known as the 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: (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 coupons. 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, Chapter 20.2; Code of Federal Regulations 7 CFR §273.16)

Information submitted at the hearing reveals that you withheld information about your household income in order to receive SNAP benefits for which you were not entitled.

It is the decision of the State Hearing Officer that an Intentional Program Violation was committed by you and a disqualification penalty of two (2) years will be applied. Your disqualification from SNAP will begin effective January 1, 2013.

Sincerely,

Todd Thornton
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Jennifer Butcher, Department Representative

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

IN RE: ----,

Defendant,

v.

ACTION NO.: 12-BOR-1967

**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 on September 26, 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 Todd Thornton, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Defendant committed an Intentional Program Violation (IPV) and should be disqualified for a specified period from participation in SNAP.

V. APPLICABLE POLICY:

Code of Federal Regulations, 7 CFR §273.16

West Virginia Income Maintenance Manual, Chapter 20.2; Chapter 9.1.A.2.h; Chapter 9.1.A.1.b(2)

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Benefit recovery referral screen print
- D-2 West Virginia Income Maintenance Manual, Chapter 1.2
- D-3 Code of Federal Regulations, 7 CFR §273.16
- D-4 SNAP review document dated August 13, 2011
- D-5 Notification letter dated August 26, 2011
- D-6 Data system screen prints regarding income and employment
- D-7 Medicaid review document dated November 3, 2011
- D-8 Application for Emergency Assistance dated December 9, 2011
- D-9 Combined Application and Review Form (CAF) and Rights and Responsibilities form, dated February 23, 2012
- D-10 West Virginia Income Maintenance Manual, Chapter 2.2
- D-11 West Virginia Income Maintenance Manual, Chapter 2.2
- D-12 West Virginia Income Maintenance Manual, Chapter 2.2
- D-13 Food Stamp Claim Determination form and supporting documentation; Income verification
- D-14 West Virginia Income Maintenance Manual, Chapter 20.6
- D-15 Notification of Intent to Disqualify; Waiver of Administrative Disqualification Hearing form; Appointment letter
- D-16 West Virginia Income Maintenance Manual, Chapter 20.2
- D-17 West Virginia Income Maintenance Manual, Chapter 20.2
- D-18 West Virginia Income Maintenance Manual, Chapter 20.2

VII. FINDINGS OF FACT:

- 1) The Investigations and Fraud Management (IFM) unit of the West Virginia Department of Health and Human Resources (Department) is alleging an act of Intentional Program Violation (IPV) in the Defendant's case due to his withholding household income information affecting the Defendant's eligibility for SNAP, formerly known as the Food Stamp Program.

- 2) The hearing convened as scheduled at 3:00 p.m., and as of 3:15 p.m., the Defendant failed to appear. As set forth in regulations (7 CFR §273.16(e)(4)), and State Policy (West Virginia Department of Health and Human Resources Common Chapters Manual, 740.20), the hearing was conducted without the Defendant in attendance.
- 3) The Code of Federal Regulations, 7 CFR §273.16(c), defines an IPV as:
 - (c) Definition of intentional Program violation. 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, 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).
- 4) Jennifer Butcher, representative for the Department, presented application or review documents for SNAP (Exhibit D-4) or affecting SNAP eligibility (Exhibits D-7 and D-8) signed by the Defendant on August 13, 2011, November 3, 2011, and December 9, 2011, respectively. On these documents, the Defendant reported employment with ---- as his only earned income source.
- 5) Ms. Butcher presented income verification (Exhibit D-13) to show that the Defendant was additionally working at ----. This income verification showed the Defendant was hired on June 9, 2011, and received regular pay from this employment. The earned income from ---- was not reported on the application or review documents for, or related to, SNAP eligibility (Exhibits D-4, D-7, and D-8).
- 6) Ms. Butcher testified that as a result of the Defendant withholding information about a second source of household income, he received an overissuance (Exhibit D-13) of SNAP benefits totaling \$3362.00 between September 2011, and February 2012. Ms. Butcher confirmed that the Defendant has a prior IPV offense, and that the proposed IPV would be a second offense.
- 7) The West Virginia Income Maintenance Manual, Chapter 9.1.A.2.h, states:
 - h. 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 Department clearly established that the Defendant withheld information regarding a second source of household income. The Defendant signed multiple application or review documents reporting income from one employer, but not from his second employer.
- 2) The Department also clearly established the intent of the Defendant to provide misleading information to receive SNAP benefits for which he otherwise would not have been entitled. By withholding the reporting of household income, the Defendant caused an overissuance of SNAP benefits in the amount of \$3362.00. The Department was correct in its determination that an IPV was committed by the Defendant.

IX. DECISION:

Intentionally withholding, concealing, or providing misleading facts to secure SNAP benefits constitutes a clear violation of the regulations. Based on the evidence presented, I find the violation intentional.

The Agency's proposal to apply a SNAP disqualification is **upheld**. The Defendant will be disqualified from participation in SNAP for a period of twenty-four (24) months to begin effective January 1, 2013.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this _____ Day of December 2012.

**Todd Thornton
State Hearing Officer**