



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
2699 Park Avenue, Suite 100
Huntington, WV 25704

Earl Ray Tomblin
Governor

Michael J. Lewis, M.D., Ph. D.
Cabinet Secretary

February 6, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on the SNAP Administrative Disqualification Hearing held January 11, 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 intentionally made a false statement about 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 an Intentional Program Violation was committed by you and a disqualification penalty of one (1) year will be applied. Your disqualification from SNAP will begin effective March 1, 2012.

Sincerely,

Todd Thornton
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Cassandra Burns, Department Representative

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

IN RE: -----,

Defendant,

v.

ACTION NO.: 11-BOR-2047

**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 concluded on February 6, 2012, 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 January 11, 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:

Cassandra Burns, 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

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Code of Federal Regulations, 7 CFR §273.16
- D-2 Benefit recovery referral screen prints
- D-3 Food Stamp Claim Determination forms and supporting documentation
- D-4 Combined Application and Review form (CAF) and Rights and Responsibilities form, dated May 10, 2010
- D-5 Case comments screen print, comment dates May 10, 2010 through July 1, 2010
- D-6 School attendance verification letter, dated September 16, 2010
- D-7 Statement from [REDACTED] dated October 7, 2010
- D-8 West Virginia Income Maintenance Manual, Chapter 1.2.E
- D-9 West Virginia Income Maintenance Manual, Chapter 20.2
- D-10 West Virginia Income Maintenance Manual, Chapter 20.6
- D-11 Notification of Intent to Disqualify; Waiver of Administrative Disqualification Hearing; U.S. Postal Service Return Receipt copy

VII. FINDINGS OF FACT:

- 1) The Department is alleging an act of Intentional Program Violation, or IPV, in the Defendant's case, due to making a false statement regarding his household composition – specifically the presence of his daughter, ----- affecting the Defendant's eligibility for SNAP, formerly known as the Food Stamp Program.
- 2) The hearing convened as scheduled at 10:45 a.m., and as of 11:00 a.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) The Department presented an application and Rights and Responsibilities form (Exhibit D-4) from a May 10, 2010 SNAP application. This form lists the Defendant and his children – including ----- as present in his household.
- 5) The Department verification (Exhibit D-6) from [REDACTED] Elementary School, in [REDACTED] [REDACTED]. This verification indicated that -----was enrolled in this school as of August 15, 2008. It listed no date of transfer to another school. Neither the parent/guardian information nor the emergency contact person listed the Defendant; -----was listed as parent. The address for the child, and her listed parent/guardian, was in [REDACTED] [REDACTED]. The Defendant reported his – and [REDACTED]'s – residence as [REDACTED] [REDACTED] [REDACTED] on his application (Exhibit D-4).
- 6) The Department presented a statement (Exhibit D-7) from [REDACTED] the mother of [REDACTED]. The statement indicated that -----was living with [REDACTED] [REDACTED] had been since she was four years old, and that [REDACTED] started kindergarten while in [REDACTED] custody.
- 7) Cassandra Burns, representative for the Department, testified that the false statement of the Defendant regarding his household composition resulted in SNAP over issuance claims totaling \$568.00 for the period June, 2010 through September, 2010 (Exhibit D-3). Ms. Burns testified that the proposed IPV would be a first offense sanction for the Defendant.
- 8) 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 falsely reported his household composition. School verification and a sworn statement showed that the Defendant's daughter was residing with her mother in [REDACTED]
- 2) The Department also clearly established the intent of the Defendant to provide misleading information to receive SNAP benefits for which he would not have otherwise been entitled. The Department indicated that the error resulting from this incorrect information from the Defendant resulted in a series of SNAP over issuance claims totaling \$568.00. 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 twelve (12) months to begin effective March 1, 2012.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this _____ Day of February, 2012.

**Todd Thornton
State Hearing Officer**