



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

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

March 6, 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 March 2, 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 May 2012.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Cassie Burns, RI, WVDHHR

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

-----,

Defendant,

v.

Action Number: 11-BOR-2090

**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 March 2, 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
Cassie Burns, 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, 9.1, 10.3, 10.4 & 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 7 CFR § 273.16 USDA Code of Federal Regulations
- D-2 Benefit Recovery Referral – Referral date 2/8/11
- D-3 Food Stamp Claim Determination (November 2010 through April 2011), accompanied by monthly calculations
- D-4 Combined Application and Review Form (CAF) – dated 9/30/10
- D-5 Case Comments for period 3/25/10 – 11/10/10
- D-6 Combined Application and Review Form (CAF) – dated 3/29/11
- D-7 Case Comments for period 11/10/10 – 4/27/11
- D-8 Provider Payment History for period 9/16/10 – 4/6/11
- D-9 WV Children's Health Insurance Application (WV-Kids-1) dated 11/9/10
- D-10 West Virginia Income Maintenance Manual Chapter 1.2
- D-11 West Virginia Income Maintenance Manual Chapter 20.2
- D-12 West Virginia Income Maintenance Manual Chapter 20.6
- D-13 Waiver of Administrative Disqualification Hearing (ig-ifm-br-44) signed on October 6, 2011

VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from Repayment Investigator Cassie Burns on October 18, 2011. Ms. Burns, representing the Department of Health and Human Resources, hereinafter 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-13 was signed by the Defendant on October 6, 2011 indicating that she wanted to proceed with an administrative hearing.
- 2) The Department contends that the Defendant intentionally violated SNAP regulations by withholding information about employment income. The Department's repayment unit received a Benefit Recovery Referral (D-2) on April 1, 2011 indicating that an over issuance of SNAP benefits may have occurred during the period of November 2010 through April 2011. An investigation into the matter revealed that the Defendant underwent two SNAP reviews during this period (D-4 – SNAP review completed on September 30, 2010, and D-6 – SNAP review completed on March 29, 2011) and the only income documented in both of the signed Combined Application and Review Forms (CAFs) is child support income.

The Department submitted Exhibit D-5, Case Comments from the September 30, 2010 SNAP review, wherein documentation further confirms that the Defendant reported she graduated from college and that she is now looking for employment. The only income reported is CSDP (Child Support Direct Pay) for her children.

Exhibit D-7, Case Comments documented during the March 29, 2011 SNAP review, confirms that the Defendant again reported that the only income in her home was from CSDP for each of her two children.

Exhibit D-9, WV Children's Health Insurance Application, was completed by the Defendant on November 9, 2010 (completed in between both of the SNAP reviews). The Defendant clearly indicated that the only income in the home is child support (\$499) and marked "No" when answering the question about whether she had any employment income.

- 3) Exhibit D-8 provides verification of employment income received by the Defendant for providing child care through LINK. This document shows that the Defendant received full or partial payments every month beginning on September 16, 2010 through April 6, 2011. The Department noted that this income was neither reported during the SNAP reviews completed on September 30, 2010 and March 29, 2011, nor the WV Children's Health Insurance Application form completed on November 9, 2010.

The Department submitted Exhibit D-3, Food Stamp Claim Determination, and noted that because the Defendant withheld information about employment income, her household received \$1,279 in SNAP benefits to which it was not legally entitled.

- 4) The Defendant testified that she did not intentionally withhold information about her employment income, but failed to provide credible testimony to explain why this information was not reported on three different occasions.
- 5) By signing the CAFs on the date of application/review, the Defendant agreed to the following:

I understand my responsibility to provide complete and truthful information. I have reviewed or had read to me the information contained in this automated portion of the application form and I understand the information. I understand that it is a criminal violation of federal and state law to provide false or misleading information for the purpose of receiving benefits to which I am not by law entitled. Under penalty of perjury, I certify that the statements are true and correct.

- 6) The Rights and Responsibilities forms completed and signed by the Defendant on the dates of SNAP application/review include the following statement:

I understand if I am found (by court action or an administrative disqualification hearing) to have committed an act of intentional program violation, I will not receive Food Stamp benefits as follows: First Offense – one year; Second Offense – two years; Third Offense - permanently. In addition, I will have to repay any benefits received for which I was not eligible.

By signing the Rights and Responsibilities, the Defendant certified that she read, understood, and accepted the rights and responsibilities, and that all of the information she provided was true and correct.

- 7) 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.
- 8) 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.
- 9) West Virginia Income Maintenance Manual, Chapter 20.2:
When a 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.
- 10) 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)
- 11) 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 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 on several occasions in order to receive SNAP benefits to which she was not legally entitled. 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 May 2012.

IX. DECISION:

The Department's proposal to apply a SNAP disqualification is **upheld**. The disqualification period will begin effective May 2012.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ Day of March, 2012.

**Thomas E. Arnett
State Hearing Officer**