



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
203 E. Third Avenue
Williamson, WV 25661

Earl Ray Tomblin
Governor

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

March 20, 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 held January 31, 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 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.

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. [WV Income Maintenance Manual Section 20.2.C.2 and 7 CFR Section 273.16 (c)]

Information submitted at the hearing reveals that you intentionally provided false and misleading information about your household shelter cost 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 May 1, 2012.

Sincerely,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review
Christine Allen, Repayment Investigator

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

IN RE: -----,

Defendant,

v.

ACTION NO.: 11-BOR-2479

**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 March 20, 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. The hearing was convened by videoconference on January 31, 2012, with Department's representative appearing at the [REDACTED] County office of the WV DHHR in [REDACTED] WV, and the Hearings Examiner appearing at the [REDACTED] County office of the WV DHHR in [REDACTED] WV.

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:

Christine Allen, Repayment Investigator.

Presiding at the Hearing was Stephen M. Baisden, State Hearing Officer and a member of the State Board of Review.

The Hearing officer placed participant under oath at the beginning of the hearing.

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:

7 CFR §273.16 Code of Federal Regulations

Common Chapters Manual, Chapter 700

West Virginia Income Maintenance Manual: Chapter 1.2.E, Chapter 10.4.B.7, Chapter 20.1 and 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

M-1 IG-BR-31 Hearing Summary.

M-2 ES-FS-5 SNAP Claim Determination sheet.

M-3 IQFS Screen Print from RAPIDS system showing SNAP issuance history.

M-4 EFAD Screen Print from RAPIDS showing SNAP allotment determination for each month of SNAP benefits received by Defendant.

M-5 ES-FS-5a SNAP calculation sheets showing corrected benefit amounts.

M-6 AQCM Screen print from RAPIDS System showing case member history.

M-7 CMCC Screen print from RAPIDS System showing Income Maintenance worker case comments made on June 5, 2011, and September 13, 2011, in Defendant's case.

M-8 Copy of purchase agreement between Defendant and -----indicating the seller was paid in full by Defendant for a home in [REDACTED] WV.

M-9 Written rent receipt in the amount of \$400 dated April 1, 2011 and signed by -----
-----.

M-10 Copy of Combined Application Form dated and signed by Defendant on May 5, 2011.

M-11 Copy of Rights and Responsibilities form dated and signed by Defendant on May 5, 2011.

M-12 Copy of appointment letter (IFM-1-7d) sent to Defendant on November 15, 2011, asking her to meet with Repayment Investigator on November 30, 2011 to discuss the referral.

M-13 Copy of IFM-BR-44 Waiver of Administrative Disqualification Hearing form and IFM-BR-44a Notice of Intent to Disqualify form dated November 15, 2011.

M-14 Copy of Income Maintenance Manual Chapter 1.2.E showing client responsibility for providing accurate information.

M-15 Copy of Income Maintenance Manual Chapter 10.4.B.7 showing that shelter costs are allowable in SNAP benefit calculations only if the assistance group pays the costs out of its own resources.

M-16 Copy of Income Maintenance Manual Chapter 20.1 and 20.2 showing SNAP overpayment claims and repayment procedures.

M-17 Copy of the Code of Federal Regulations (CFR) §273.16 showing disqualifications for Intentional Program Violations.

VII. FINDINGS OF FACT:

- 1) The Department is alleging an act of Intentional Program Violation, or IPV, in the Defendant's SNAP case because she allegedly reported during a SNAP redetermination interview that she paid a shelter cost of \$400 per month in rent, when she recently had purchased her home and paid for it in full.
- 2) Defendant was mailed notice of the Administrative Disqualification Hearing on December 23, 2011, by first class mail. The notice was sent to -----, -----
----- . This is the address at which Defendant receives her public assistance benefits.
- 3) The hearing was scheduled for 10:00 a.m. on January 31, 2011, and as of 10:15 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 convened at 10:15 a.m., and was conducted without the Defendant in attendance.
- 4) On May 5, 2011, Defendant appeared at the WV Department of Health and Human Resources, ██████████ County office in ██████████, WV and completed a reapplication/review for SNAP benefits. She reported at this interview that her SNAP assistance group paid a shelter cost of rent in the amount of \$400 per month to ----- . She provided a rent receipt for the month of April 2011 for \$400 signed by ----- as verification of this cost. (Exhibit M-9.) Defendant's monthly SNAP allotment was calculated on this basis. An Economic Service Worker (ESW) recorded on May 5, 2011, that Defendant completed the reapplication/review and reported the \$400 per month shelter cost. (Exhibit M-7.) At the conclusion of the application interview, Defendant signed and dated a DFA-RFA-1, an application form which contained information she had given the worker during the interview (Exhibit M-10), including information that she paid \$400 per month in rent. She also signed and dated a DFA-RR-1, a Rights and Responsibilities form. (Exhibit M-11.) The application form signature page states,

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.

The DFA-RR-1, Rights and Responsibilities form is a list of applicants' rights and responsibilities for each program for which an applicant applies. The applicant signifies that he or she is aware of each right or responsibility by checking "Yes" or "No" at each item. Under the SNAP section of the form, item #4 states,

I understand if I am found (by court action or administrative disqualification hearing) to have committed an act of intentional program violation, I will

not receive SNAP 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.

Under the “For All Programs” section of the form, item #48 states,

I . . . understand that if I give incorrect or false information or if I fail to report changes that I am required to report, I may be required to repay any benefits I receive and I also may be prosecuted for fraud.

Defendant has marked “Yes” at both of these items.

- 5) Department’s representative submitted into evidence a Bill of Sale from Seller, -----of [REDACTED] WV to Buyer, Defendant and her spouse, dated February 16, 2011. (Exhibit M-8.) The Bill of Sale was for a house and lot in [REDACTED] WV. It was signed by -----, Defendant and Defendant’s spouse, and was notarized. The document states in part, “As of February 16, 2011, the house . . . is paid for in full for the sum of \$10,000 and is the sole property of [REDACTED] and -----.” Department’s representative called attention to the fact that the signature of ----- on the notarized Bill of Sale was noticeably different from the signature on the rent receipt. (Exhibit M-9.)
- 6) Department’s representative stated she completed a Food Stamp [SNAP] Claim Determination form, wherein she calculated that Defendant was overpaid SNAP benefits from the month of her SNAP reapplication/review, May 2011, to the month that her SNAP benefits were corrected, October, 2011, and that the amount of the overpayment was \$963. (Exhibit M-2.)
- 7) The Code of Federal Regulations, 7 CFR §273.16(c) (Exhibit M-17), defines an Intentional Program Violation (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 [SNAP] 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).
- 8) The West Virginia Income Maintenance Manual, Chapter 1.2.E (Exhibit M-14), states:

The client’s responsibility is to provide information about his circumstances so the worker is able to make a correct decision about his eligibility . . . The client must be instructed that his failure to fulfill his obligation may result in

one or more of the following actions: denial of the application; closure of the active AG [assistance group]; removal of the individual from the AG; repayment of benefits; reduction in benefits.

9) The West Virginia Income Maintenance Manual, Chapter 10.4.B.7 (Exhibit M-15) states that the shelter and utility deduction must be allowed in a SNAP AG only if the AG is obligated to pay with its resources.

10) The West Virginia Income Maintenance Manual, Chapter 20.2.C.2 (Exhibit M-17), states:

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

11) The West Virginia Income Maintenance Manual, Chapter 20.6.A states:

A willfully false statement is one that is deliberately given, with the intent that it be accepted as true, and with the knowledge that it is false. [I]t is not essential that an affirmative representation be made. Misrepresentation may also be the suppression of what is true, as well as in the representation of what is false.

VIII. CONCLUSIONS OF LAW:

The Department has established that the Defendant made a willful (or intentional) false statement to the effect that she paid a monthly shelter cost of rent in the amount of \$400 during a SNAP benefits reapplication/review on May 5, 2011, when she and her spouse had purchased her home in February 2011 and had paid the purchase amount in full for the property. She signed an application form to the effect that she paid this shelter cost, and she signed a Rights and Responsibilities form indicating she was aware of her responsibility to provide complete and accurate information and of the penalties for not doing so.

IX. DECISION:

Falsely reporting during a SNAP application or review that an individual pays a monthly shelter cost when in fact he or she pays no such cost is 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 effective May 1, 2012.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 20th Day of March, 2012.

**Stephen M. Baisden
State Hearing Officer**