



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

February 17, 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 February 14, 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 April 2012.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Melissa Barr, RI, DHHR

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

-----,

Defendant,

v.

Action Number: 11-BOR-2641

**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 February 14, 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:

Melissa Barr, Repayment Investigator (RI), DHHR

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 Benefit Recovery Referral – Referral date 2/8/11
- D-2 Notification of Intent to Disqualify dated 12/13/11
- D-3 7 CFR § 273.16 USDA Code of Federal Regulations
- D-4 Employee Wage Data for ----- and New Hire verification ()
5/23/06
- D-5 Employee Wage Data for ----- (2006 – 2011)
- D-6 Employment verification from () Management, Inc. (8/2/06-
11/26/07) and () LLC., for -----
- D-7 Employment Verification for () () 3/10 –
7/10)
- D-8 Combined Application and Review Form (CAF) – dated 6/2/06
- D-8a Combined Application and Review Form (CAF) – dated 10/31/06
- D-8b Combined Application and Review Form (CAF) – dated 11/27/06
- D-8c Combined Application and Review Form (CAF) – dated 5/31/07
- D-8d Telephone SNAP Review – dated 5/24/10
- D-8e Children's Medicaid Application Forms (WV-KID-1) – dated 8/22/07
- D-8f Children's Medicaid Application Forms (WV-KID-1) – dated 10/18/07
- D-8g West Virginia School Clothing Allowance (SCA) Application – dated 6/25/07
- D-9 West Virginia Income Maintenance Manual Chapter 1.2
- D-10 West Virginia Income Maintenance Manual Chapter 2.2.B
- D-11 West Virginia Income Maintenance Manual Chapter 20.2

VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from Repayment Investigator Melissa Barr on December 23, 2011. Ms. Barr, representing the Department of Health and Human Resources, hereinafter Department, contends that the Defendant has committed an Intentional Program Violation, 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.
- 2) Notification of the February 14, 2012 hearing was mailed to the Defendant on January 9, 2012 via First Class U.S. Mail as the Defendant is a current recipient of benefits through the Department and resides at an address confirmed by the Department.

- 3) The hearing convened as scheduled on February 14, 2012 at 11:30 a.m., and as of 11:45 a.m., the Defendant failed to appear. As set forth in the Code of Federal Regulations found at §7 CFR 273.16 (e) (4), and policy found in the 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 violated SNAP regulations by withholding information about household and employment income. The Department provided the following evidence in support of its position that an Intentional Program Violation (IPV) has been committed by the Defendant: On June 2, 2006, the Defendant completed a Combined Application and Review Form (Exhibit D-8), hereinafter CAF, and withheld information regarding -----'s income (D-4). The Defendant completed a CAF on October 31, 2006 (D-8a) and failed to report her income (D-5 and D-6), as well as -----'s income (D-4). On November 27, 2006, and again on May 31, 2007, the Defendant failed to report employment income (D-5 and D-6) when she completed CAFs (D-8b and D-8c). The Department further noted that the Defendant completed a telephone review for SNAP (D-8d) on May 24, 2010 and withheld -----employment income (D-7). Exhibits D-8e and D-8f were completed by the Defendant on August 22, 2007 and October 18, 2007, and both of these Medicaid applications fail to include the Defendant's employment income verified in Exhibits D-5 and D-6. Lastly, the Department submitted Exhibit D-8g, an application for School Clothing Allowance (SCA) dated June 25, 2007, wherein the Defendant withheld information regarding her employment and earnings (D-5 and D-6).

The Department contends that the Defendant has knowingly and intentionally withheld information about her employment and household income, as demonstrated in Exhibit D-8 through Exhibit D-8g, and received \$5,460 in SNAP benefits to which she was not legally entitled.

- 5) By signing the CAFs on the day of application, 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) The evidence reveals that the Defendant provided false and misleading information about her employment and household 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 twelve months (one year).
- 5) Only the Defendant is subject to this disqualification. The 1-year disqualification will begin effective April 2012.

IX. DECISION:

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

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ Day of February, 2012.

**Thomas E. Arnett
State Hearing Officer**