



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 Washington Street, West
Charleston, WV 25313

Earl Ray Tomblin
Governor

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

March 8, 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 (ADH) held March 8, 2012, for the purpose of determining whether either of 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 SNAP 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 [SNAP] Act, the SNAP Regulations, or any State statute relating 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 period of 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).

The information submitted at the hearing supports that [REDACTED] and ----- intentionally provided false information about their household's circumstances in order to receive SNAP for which they were not entitled.

It is the decision of the State Hearing Officer to **uphold** the Agency's proposal to apply a one (1) year SNAP disqualification penalty against [REDACTED] based on the determination that they committed an Intentional Program Violation. The disqualification penalty period will begin April 1, 2012.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review / Natasha Jemerison, Kanawha DHHR

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES

BOARD OF REVIEW

IN RE: -----AND
-----,

Defendants,

v.

**ACTION NO.: 12-BOR-310 - [REDACTED]
12-BOR-311 - [REDACTED]**

**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 ----- and ----- . This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' Office of Inspector General Common Chapters Manual. This hearing was convened on March 8, 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
-----, Co-Defendant
Natasha Jemerison, Department Representative

Presiding at the Hearing was Cheryl Henson, 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 and/or Co-Defendant committed an intentional program violation and should be disqualified for one year from participation in SNAP.

V. APPLICABLE POLICY:

7 CFR § 273.16 USDA Code of Federal Regulations
Common Chapters Manual Chapter 700, Appendix A
West Virginia Income Maintenance Manual §1.2, 9.1.A.2.h and 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- M-1 Benefit Recovery Referral screen from the Department's computer system dated February 15, 2012
- M-2 West Virginia Income Maintenance Manual §1.2, E
- M-3 Food Stamp Claim Determination Form and supporting documentation
- M-4 Code of Federal Regulations 7 CFR 273.16
- M-5 Snap review application dated September 15, 2009
- M-6 Rights and Responsibilities form dated September 15, 2009
- M-7 Self-completed Low Income Energy Assistance Program (LIEAP) application dated December 7, 2009
- M-8 SNAP review application form dated March 9, 2010, and supporting documentation
- M-9 Rights and Responsibilities form dated March 9, 2010
- M-10 SNAP review application dated February 25, 2011
- M-11 Rights and Responsibilities form dated February 25, 2011
- M-12 Income verification from [REDACTED], dated October 1, 2011
- M-13 West Virginia Income Maintenance Manual §2.2
- M-14 West Virginia Income Maintenance Manual §20.6
- M-15 Notification letters dated December 19, 2011

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing, hereinafter ADH, was received by the Board of Review from the Department of Health and Human Resources, hereinafter Department, on January 10, 2012. The Department contends that the Defendant and Co-Defendant have committed an Intentional Program Violation, hereinafter IPV, and made a fraudulent statement or misrepresentation regarding their household income or other circumstances in order to receive SNAP, and is recommending that both be disqualified from participation in SNAP for a period of one (1) year.
- 2) The Department contends that the Defendant and Co-Defendant intentionally reported incorrect household income for their SNAP household during numerous reviews and interviews occurring between September 15, 2009 and February 25, 2011; specifically, that they withheld information regarding their son's earned income from employment. Their son was a member of the SNAP assistance group during the period in question.
- 3) The Department presented evidence which supports that the Defendant completed a SNAP application interview (M-5) on September 15, 2009, at the ██████████ County, West Virginia, Department of Health and Human Resources' office in ██████████ West Virginia, at which time he reported that his adult son, -----, lived in his household. He reported no earned income for the household. He signed the application and Rights and Responsibilities form (M-6) indicating he understood his responsibility to report accurate and truthful information and the penalties for failure to do so.
- 4) Additional evidence (M-7) supports that the Defendant self-completed a Low Income Energy Assistance Program (LIEAP) application on December 7, 2009, at which time he reported that -----lived in his household and that he had no income. He reported no income for the entire household at that time. He signed the application (M-7) indicating he understood his responsibility to report accurate and truthful information and the penalties for failure to do so.
- 5) Additional evidence (M-8) supports that both the Defendant and Co-Defendant completed a SNAP and Medicaid application interview on March 9, 2010, at which time they both reported that -----lived in their household and that he had no earned income. They both signed the application form (M-8) and Rights and Responsibilities form (M-9) indicating that they both understood their responsibility to report accurate and truthful information and the penalties for failure to do so.
- 6) Additional evidence (M-10) supports that both the Defendant and Co-Defendant completed a SNAP review interview on February 25, 2011, at which time they both reported that -----lived in their household and that he had no earned income. They both signed the application form (M-10) and the Rights and Responsibilities form (M-11) indicating that they understood their responsibility to report accurate and truthful information and the penalties for failure to do so.

- 7) Additional evidence (M-12) supports that ----- has been employed with [REDACTED] since February 9, 2009, and that he receives earned income from this employment on a regular and bi-weekly basis. This income was not reported by the Defendants.
- 8) The Defendant testified that he does not remember things and that his memory is poor. He stated his adult son, ----- lives in a “trailer” on the same property on which his home is located but that he does not live in the same dwelling as the Defendant. He stated that he considers that his son still lives in his household because his dwelling is only a few feet away from the Defendant’s dwelling. He stated that his son is now [REDACTED] years of age and that he does not tell him about his employment. He added that his son does not eat meals with him, and that his son usually eats his meals “out” or with his girlfriend and that when he needs food he will take the Defendant’s SNAP “card” and purchase food for his own dwelling. He stated that he reported when his son began working but that the Department did not ask him to verify the income; however, case comments (M-3) in the Department’s computer system do not support that the earnings were reported. The case comments support that the Defendant reported no earned income for the household, which is also consistent with what he reported on the self-completed LIEAP application. He added that he has cooperated with the Department to the best of his ability and that he did not knowingly withhold information about his son’s employment and living arrangements.
- 9) The Co-Defendant corroborated the Defendant’s testimony regarding their son living in a separate dwelling on the same property and not with the Defendants. She testified that she does not know her son’s business and that she does not speak with him or share meals with him. She stated that she and the Defendant reported to the Department that he was working but that they were not asked by the Department to verify the income. Again, this is not supported by the evidence. She stated that she never intentionally withheld information from the Department.
- 10) West Virginia Income Maintenance Manual §1.2 (E) states that it is the client's responsibility to provide information about his circumstances so the worker is able to make a correct decision about his eligibility.
- 11) West Virginia Income Maintenance Manual § 20.2 (C) (2) states in pertinent part:

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

The individual(s) who is found to have committed an IPV is ineligible to participate in the program for a specified time, depending on the number of offenses committed.

Once an IPV is established, a disqualification penalty is imposed on the AG member(s) who committed the IPV.

- 12) Common Chapters Manual 700, Appendix A, Section B, provides that an IPV 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 [SNAP] Act, the SNAP Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt or possession of SNAP benefits.
- 13) Common Chapters Manual 700, Appendix A, Section G, states that the State Hearing Officer shall base the determination of IPV on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, an IPV as defined in Section B of this Appendix.
- 14) West Virginia Income Maintenance Manual §9.1.A.2.h states:

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 policy and regulations that govern SNAP specify that a SNAP Violation has occurred when an individual intentionally makes a false or misleading statement, misrepresents, conceals, or withholds facts relating to the use, presentation, transfer, acquisition, receipt or possession of SNAP benefits.
- 2) The regulations specify that there must be clear and convincing evidence that demonstrates a Defendant intentionally committed an IPV.
- 3) The Defendants clearly were aware of their responsibility to report truthful and accurate information and the penalties involved for failing to do so. The Defendant signed numerous applications and Rights and Responsibilities forms from the period of September 15, 2009 through February 25, 2011. The Defendant also self-completed one application on December 7, 2009, at which time he clearly reported that his son lived with him and that he had no income. The Co-Defendant also signed numerous applications and Rights and Responsibilities forms from the period of March 9, 2010 through February 25, 2011, at which time she clearly reported that her son lived in their household and that he had no income. These applications and Rights and Responsibilities forms clearly informed them of their responsibilities to report accurate and truthful information.

- 4) The totality of the evidence supports that the Defendant, as well as the Co-Defendant, intentionally withheld information about their household composition and/or household income during numerous applications and interviews. Both Defendants reported during the hearing that their son, -----did not live in the same household with them and that he actually lived in a trailer on the same property. They also both reported that their son did not eat meals with them and that when he purchased food with the use of their SNAP “card,” he kept this food at his separate residence. The evidence supports that this information was not reported, and the Defendants’ claims that they considered that their son lived with them in their household because the dwellings were so close together, and that they reported his earnings to the Department, is not supported by the evidence.
- 5) As a result, the Department was correct in its determination that the Defendants have committed an IPV by intentionally withholding information about their household composition and/or household earned income.

IX. DECISION:

The Agency’s proposal to apply a one (1) year Food Stamp disqualification penalty is **upheld**. The Defendant’s disqualification penalty period will begin April 1, 2012.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant’s Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 8th Day of March, 2012.

**Cheryl Henson
State Hearing Officer**