



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 16, 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 March 6, 2012 to determine 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 SNAP benefits 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. An individual, who has made a fraudulent statement or representation about his identity or place of residence in order to receive multiple Food Stamp benefits simultaneously, is ineligible to receive Food Stamp benefits for a 10-year period. (West Virginia Income Maintenance Manual, Chapter 8.6,A, 20.2 and Code of Federal Regulations - 7 CFR § 273.16).

The information submitted at the hearing reveals that you made a fraudulent statement or misrepresentation about your place of residence in order to receive multiple SNAP benefits simultaneously.

It is the decision of the State Hearing Officer to **uphold** the Agency's proposal to apply a SNAP disqualification penalty against you based on an Intentional Program Violation/receipt of simultaneous multiple benefits. The 10-year disqualification period will begin effective May 1, 2012.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Brian Shreve, RI

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

-----,

Defendant,

v.

Action Number: 12-BOR-362

**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 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 6, 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 an EBT card to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

III. PARTICIPANTS:

Brian Shreve, 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 or not the Defendant committed an Intentional Program Violation (IPV) and should be disqualified for a specified period from participation in the Supplemental Nutrition Assistance Program (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 §§8.6, 20.2 and 20.6

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's (Movant) Exhibits:

- M-1 7 CFR § 273.16 USDA Code of Federal Regulations
- M-2 Benefit Recovery Referral dated 5/20/11
- M-3
 - Food Stamp Claim Determination for the period of 1/11 through 4/11
 - Address information provided by the Defendant
 - Assistance Group (AG) members
 - SNAP Issuance History (Disbursement)
 - Food Stamp Allotment Determination
 - Case comments for the period of 12/30/10 – 5/10/11
- M-4 Combined Application and Review Form (CAF) dated 1/12/11
- M-5 Case Comments for the of period 1/12/11 – 2/3/11 (duplicate)
- M-6 JPMorganChase Transaction Detail of West Virginia SNAP benefits used in Florida (12/7/10, 12/13/10, 1/24/11, 1/25/11, and 2/8/11)
- M-7
 - Assistance Group members in Florida SNAP case
 - Monthly SNAP benefits issued to Defendant from Florida for 12/18/10 through 4/5/11
 - JP MorganChase Transaction History SNAP benefits issued by Florida/used in Florida 12/18/10 – 2/8/11
 - JPMorganChase Transaction History SNAP benefits issued by Florida/used in West Virginia 2/15/11 – 4/8/11
- M-8 West Virginia Income Maintenance Manual §8.6
- M-9 West Virginia Income Maintenance Manual §20.2
- M-10 West Virginia Income Maintenance Manual §20.2
- M-11 Notification of Intent to Disqualify dated 9/8/11

VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from the Department on January 3, 2012. The Department contends that the Defendant has committed an Intentional Program Violation and is recommending that the Defendant be disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, for a period of 120 months (10 years). The Defendant was provided Notification of Intent to Disqualify in correspondence dated September 8, 2011 (M-11).

- 2) Notification of the March 6, 2012 hearing was mailed to the Defendant on January 31, 2012 via First Class U. S. Mail, as the Defendant is a current recipient of public assistance in the State of West Virginia and is residing at an address confirmed by the Department.
- 3) The hearing convened as scheduled at 11 a.m., and as of 11:15 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 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 presented evidence to indicate that the Repayment Unit received information confirming the Defendant was receiving SNAP benefits simultaneously from West Virginia and Florida during the months of January, February, March and April 2011 (Exhibit M-2).
- 5) The Department submitted Exhibit M-4, Combined Application and Review Form (CAF) and the Right and Responsibilities (DFA-RR-1), completed and signed by the Defendant on January 13, 2011 following a telephonic SNAP review conducted on January 12, 2011. By signing the CAF, the Defendant indicated that she reviewed, or had read to her, the information contained on the automated portion of the application form, that she understood the information and certified that the statements contained in the document were true and correct. The Defendant signed and marked "yes" to #3(B) on the DFA-RR-1 indicating she understood that if she or any member of her household makes a false statement or misrepresentation of identity and/or residence to receive duplicate benefits at the same time, the responsible party will be disqualified from the SNAP for 10 years.
- 6) Exhibits M-3, M-6, and M-7 reveal that the Defendant was issued SNAP benefits from the State of [REDACTED] for the period of December 2010 through April 2011, and SNAP benefits from the State of West Virginia from January 2011 through April 2011. Exhibit M-7 further provides verification that the Defendant made several purchases with her [REDACTED] SNAP benefits in West Virginia beginning February 15, 2011 and that she used her West Virginia SNAP benefits in [REDACTED]. The Department cited Exhibit M-5 to show that Defendant intentionally provided false and misleading information about her residence as she reported during the January 12, 2011 telephone review that she missed her previously scheduled SNAP review because she had been staying at the hospital in [REDACTED] with her ailing child since November 28, 2010. The SNAP transactions verified in Exhibits M-6 and M-7 clearly demonstrate that the Defendant's statement was untruthful. The Department submitted Exhibit M-3, Food Stamp Claim Determination for the period of January 2011 through April 2011, to show that the Defendant received \$1,813 in SNAP benefits from the State of West Virginia that she was not legally entitled to receive because she was untruthful about her residence and failed to report she was actively receiving SNAP benefits in [REDACTED].
- 7) WV Income Maintenance Manual, Chapter 8.6 states that a client may not receive SNAP benefits, WV WORKS or Medicaid concurrently in more than one county in West Virginia or more than one state. In addition, he may not receive different types of benefits in more than one county or state at the same time. The possibility of intentional misrepresentation must be explored when it is discovered that the client is receiving benefits of any type in more than one county at the same time. See Common Chapters Manual for procedures involving misrepresentation.

Policy goes on to state that an individual who has made a fraudulent statement or representation about his identity or place of residence in order to receive multiple SNAP benefits simultaneously, is ineligible to receive SNAP benefits for a 10-year period. The 10-year period begins on the date the client is found guilty in a federal or state court or in an ADH [Administrative Disqualification Hearing]. This applies to multiple benefits received in more than one state or in the same state. Conviction of, or ADH finding of, attempting to receive such multiple benefits carries the same disqualification penalty as actual receipt of the benefits.

- 8) West Virginia Income Maintenance Manual, Chapter 1.2 (E) states that it is the client's responsibility is to provide information about his circumstances so the worker is able to make a correct decision about his eligibility.
- 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. Pursuant to WVIMM, Chapter 9.1, A, 2, g – Receipt of simultaneous multiple benefits as determined by an ADH or conviction in a state or federal court, due to a fraudulent statement with respect to identity or place of residence results in a program disqualification penalty of 10 years.
- 11) Common Chapters Manual 740.11.D states as follows:

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.

- 12) Code of Federal Regulations found at 7 CFR §273.16.b.5 states:

Except as provided under paragraph (b) (1) (iii) of this section, an individual found to have made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple food stamp benefits simultaneously shall be ineligible to participate in the Program for a period of 10 years.

VIII. CONCLUSIONS OF LAW:

- 1) Regulations that govern SNAP benefits state that a Food Stamp Program (SNAP) Violation has occurred when an individual intentionally makes a false or misleading statement, or misrepresented, concealed or withheld facts relating to the use, presentation, transfer, acquisition, receipt or possession of Food Stamp benefits. An individual found to have made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple Food Stamp benefits simultaneously shall be ineligible to participate in the program for a period of 10 years.
- 2) The evidence is clear and convincing that the Defendant intentionally committed a SNAP violation as defined in the Food Stamp policy and regulations.
- 3) Pursuant to SNAP regulations, an Intentional Program Violation has been committed and a disqualification penalty must be applied. Making a fraudulent statement or misrepresentation about identity or place of residence in order to receive multiple SNAP benefits simultaneously, results in ineligibility to receive SNAP benefits for a 10-year period. This applies to multiple benefits received in more than one state or in the same state.
- 4) Only the Defendant is subject to this disqualification. The 10-year disqualification will begin effective May 1, 2012.

IX. DECISION:

The Agency's proposal to apply a 10-year disqualification is **upheld**. The disqualification period will begin effective May 1, 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**