



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
2699 Park Avenue, Suite 100
Huntington, WV 25704

Earl Ray Tomblin
Governor

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

May 23, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on the SNAP Administrative Disqualification Hearing held April 4, 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 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, formerly known as the 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: (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. (West Virginia Income Maintenance Manual, Chapter 20.2; Code of Federal Regulations 7 CFR §273.16)

Information submitted at the hearing reveals that you intentionally made a false statement about a past drug felony 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 July 1, 2012.

Sincerely,

Todd Thornton
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Cassandra Burns, Department Representative

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

IN RE: -----,

Defendant,

v.

ACTION NO.: 12-BOR-367

**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 May 23, 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. This hearing was convened on April 4, 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:

Cassandra Burns, Department representative

Presiding at the hearing was Todd Thornton, 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 SNAP.

V. APPLICABLE POLICY:

Code of Federal Regulations, 7 CFR §273.16
West Virginia Income Maintenance Manual, Chapter 20.2; Chapter 9.1.A.2.h

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Code of Federal Regulations, 7 CFR §273.16
- D-2 Benefit recovery referral screen print
- D-3 Food Stamp Claim Determination form and supporting documentation
- D-4 Plea Agreement from ██████████ County Circuit Court
- D-5 Order from ██████████ County Circuit Court
- D-6 SNAP review document
- D-7 Case comments, entry dates from July 29, 2010, through September 10, 2010
- D-8 SNAP phone review form, dated August 3, 2011
- D-9 Combined Application and Review Form (CAF) dated September 7, 2011; Screening form; Rights and Responsibilities form dated September 7, 2011
- D-10 Case comments, entry dates from August 9, 2011 through September 7, 2011
- D-11 Prisoner Match screen print
- D-12 West Virginia Income Maintenance Manual, Chapter 1.2.E
- D-13 West Virginia Income Maintenance Manual, Chapter 20.2
- D-14 West Virginia Income Maintenance Manual, Chapter 20.6
- D-15 Notification of Intent to Disqualify; Waiver of Administrative Disqualification Hearing; Copy of certified mail envelope

VII. FINDINGS OF FACT:

- 1) The Department is alleging an act of Intentional Program Violation, or IPV, in the Defendant's case, due to making a false statement regarding program disqualification – specifically that he had previously been convicted of a drug felony – affecting the Defendant's eligibility for SNAP, formerly known as the Food Stamp Program.
- 2) The hearing convened as scheduled at 9:15 a.m., and as of 9:30 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 was conducted without the Defendant in attendance.

- 3) The Code of Federal Regulations, 7 CFR §273.16(c), defines an 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 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).
- 4) The Department presented a SNAP review document (Exhibit D-8) signed by the Defendant on August 3, 2011. This document provides a section for reporting SNAP disqualifications, asking “[h]as anyone in your household been convicted of a drug felony for possession, use or distribution of a controlled substance committed on or after 08/23/96?” The Defendant did not mark this section.
- 5) The Department presented a plea agreement (Exhibit D-4) before the Circuit Court of ██████ County, West Virginia, which states that the Defendant “...agrees to enter a plea of guilty to the felony offense of attempt to manufacture a controlled substance...” An order (Exhibit D-5) entered July 8, 2010, in the Circuit Court of ██████ County, West Virginia, outlines the sentencing of the Defendant for the same felony.
- 6) Cassandra Burns, representative for the Department, testified that the false statement of the Defendant regarding his program disqualification resulted in a SNAP over issuance claim totaling \$1377.00 for the period September 2010, through August 2011 (Exhibit D-3). The over issuance occurred because the Defendant should have received SNAP benefits based on a smaller household size. Ms. Burns testified that the proposed IPV would be a first offense sanction for the Defendant.
- 7) The West Virginia Income Maintenance Manual, Chapter 9.1.A.2.h, states:

h. 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 Department clearly established that the Defendant withheld information regarding his felony drug conviction. The Department showed that the Defendant did not respond to a question specifically asking for this information on a review document to determine SNAP eligibility.

- 2) The Department also clearly established the intent of the Defendant to provide misleading information to receive SNAP benefits for which he would not have otherwise been entitled. The Department presented documentation that the information withheld by the Defendant resulted in an over issuance of SNAP in the amount of \$1377.00. The Department was correct in its determination that an IPV was committed by the Defendant.

IX. DECISION:

Intentionally withholding, concealing, or providing misleading facts to secure SNAP benefits constitutes 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 to begin effective July 1, 2012.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this _____ Day of May, 2012.

Todd Thornton
State Hearing Officer