



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 1, 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 1, 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 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 you intentionally provided false information about your household's circumstances in order to receive SNAP for which you 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 you based on the determination that you committed an Intentional Program Violation. Your 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: -----,

Defendant,

v.

ACTION NO.: 12-BOR-496

**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 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 1, 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
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 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 November 8, 2011
- 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 WV Health Care Coverage for Kids and Expectant Moms (WVCHIP) application dated July 9, 2010, and supporting documentation
- M-6 SNAP and medical review application dated September 20, 2010, and supporting documentation
- M-7 Rights and Responsibilities form dated September 20, 2010
- M-8 SNAP review application form dated March 3, 2011, and supporting documentation
- M-9 Rights and Responsibilities form dated March 3, 2011
- M-10 WVCHIP application dated June 6, 2011
- M-11 Case Comments from Department's various computer systems
- M-12 West Virginia Income Maintenance Manual §2.2
- M-13 West Virginia Income Maintenance Manual §20.6
- M-14 Notification letters dated November 8, 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 27, 2012. The Department contends that the Defendant has committed

an Intentional Program Violation, hereinafter IPV, and made a fraudulent statement or misrepresentation regarding her household composition in order to receive SNAP, and is recommending that she be disqualified from participation in SNAP for a period of one (1) year.

- 2) The Department contends that the Defendant intentionally reported incorrect household composition for her SNAP household during numerous reviews and interviews occurring on or about July 9, 2010, September 20, 2010, March 3, 2011, and June 6, 2011, by withholding the fact that her daughter, -----, was not living in her household.
- 3) The Department presented evidence which supports that the Defendant self-completed a Children's Medicaid form (M-5) on July 9, 2010, at which time she reported that her teenage daughter, -----, was living in her household. Other documentation (M-3) shows that the Department's case worker recorded that she processed the form and added ----- to the Defendant's case at that time.
- 4) Additional evidence (M-6) supports that the Defendant completed a SNAP and Medicaid review interview on September 20, 2010, at which time she again reported that ----- lives in her household. She signed the application indicating that she understood her responsibility to provide complete and truthful information and the penalties for failure to do so. She certified that the statements on the form were true and correct. She also signed the Rights and Responsibilities form (M-7) further certifying that all statements provided by her are true and correct.
- 5) Additional evidence (M-8) supports that the Defendant completed a SNAP review interview on March 3, 2011, at which time she again reported that ----- lives in her household. She signed the application form (M-8) and Rights and Responsibilities form (M-9) indicating that she understood her responsibility to report accurate and truthful information and the penalties for failure to do so.
- 6) Additional evidence (M-10) supports that the Defendant self-completed a Children's Medicaid application on June 6, 2011, at which time she again reported that ----- lives in her household. She signed the application indicating she understood the penalties for failure to report information correctly.
- 7) Additional evidence (M-11) supports that ----- has not been living in the Defendant's home since January 20, 2010. The Department's case comments (M-11) indicate that the child was removed from the Defendant's home on January 20, 2010, and that she has consistently been living in treatment facilities since that time. The records (M-11) show that ----- lived at Daymark-Patchwork facility from January 20, 2010 until February 18, 2010; that she lived at [REDACTED] Children's Center from February 18, 2010 until November 15, 2010. The records show that on February 28, 2011 she entered the [REDACTED] center. There is no exit date from that facility provided.

- 8) The Department contends that ----- has been in the Department's Child Protective Services' custody and housed in various treatment facilities since January 20, 2010, and that she has not been living with the Defendant as she reported on numerous occasions.
- 9) The Defendant testified that she was informed by the Department's Child Protective Services Unit that during the time ----- was living in the treatment facilities she continued to be in the Defendant's "custody." She added that she believed that it was proper for her to report her daughter lived in her home as a result of having received this information. She stated that she did not recall being asked by the Department's case workers during the numerous review interviews conducted during the period in question whether ----- lived in her home.
- 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 state 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 state there must be clear and convincing evidence that demonstrates the Defendant intentionally committed an IPV.
- 3) The Defendant clearly was aware of her responsibility to report truthful and accurate information and the penalties involved for failing to do so. She read and signed numerous applications as well as the Rights and Responsibilities form which clearly informed her of these responsibilities.
- 4) The totality of the evidence supports that the Defendant intentionally withheld information about her household composition during numerous SNAP applications and interviews. She clearly reported that her daughter was living in her household on applications and during interviews conducted on or about July 9, 2010, September 20, 2010, March 3, 2011, and June 6, 2011. The evidence supports that her daughter was not living in her household during this period. She stated during the hearing that she was told by Child Protective Service staff that her daughter continued to be in her custody while she was living out of her home and in a treatment facility, and offered this as her reasoning for not reporting the situation to SNAP case workers during the interviews; however, she signed documents on those occasions indicating that she was providing accurate and truthful information when she clearly did not do so. The evidence supports this was done intentionally in order to receive SNAP benefits.
- 5) As a result, the Department was correct in its determination that the Defendant has committed an IPV by intentionally withholding information about her household composition.

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 1st Day of March, 2012.

**Cheryl Henson
State Hearing Officer**