



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 15, 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 15, 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-555

**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' Common Chapters Manual. This hearing was convened on March 15, 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
-----, Defendant's witness
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 January 23, 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 application form dated May 17, 2011, and supporting documentation
- M-6 Income Verification from [REDACTED] dated November 28, 2011
- M-7 West Virginia Income Maintenance Manual §2.2
- M-8 West Virginia Income Maintenance Manual §20.6
- M-9 Notification letters dated January 23, 2012

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 February 3, 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 and/or household income 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 and/or earned income for her SNAP household during her May 17, 2011 SNAP review application process by either withholding information regarding the earned income of her husband, -----, or by reporting that ----- was a member of her household when he was not.
- 3) The Department presented evidence which supports that the Defendant completed a SNAP review application form (M-5) on or about May 17, 2011, at which time she reported that ----- was living in her household, but she did not report his earned income from employment at [REDACTED]. She signed the application indicating she understood her responsibility to report accurate and truthful information and the penalties for failure to do so.
- 4) Additional evidence (M-6) supports that ----- was employed with [REDACTED] from January 22, 2011 through September 19, 2011, and that during the month of the May 2011 review interview he earned \$1807.50. The Defendant did not report this income.
- 5) The Defendant testified that she and ----- were having marital problems during the timeframe in question and that they did not communicate well at the time. She stated that she did not know ----- had a job and that if she had known she would have reported it. She stated that he was in and out of the home a lot during the timeframe in question and that she always thought he would be coming back so she did not report when he left.
- 6) ----- testified that when he got out of prison during May 2010 he lived with the Defendant, and that he did not tell the Defendant when he went to work because he was afraid she would try to have child support taken from his earnings. He stated that he moved out of the Defendant's home during late May or early June 2011. He stated that prior to that sometimes he was there and sometimes he was not. When asked if he gave the Defendant money from his earnings, he stated that he did or that sometimes he would pay a bill for her. The Defendant stated that she did not ask him where the money came from because she was afraid it was from an illegal source. She did not report the income.
- 7) 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.
- 8) 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.

- 9) 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.
- 10) 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.
- 11) 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 the May 2011 application which clearly informed her of these responsibilities.
- 4) The totality of the evidence supports that the Defendant intentionally withheld information about either her household composition or household earnings. She clearly did not report that her children's father, -----, was employed and receiving regular earnings. Her claims that she did not know he was employed are not credible, as he was clearly contributing earned income to her household during the timeframe in question. There is some question as to

whether ----- was living in the Defendant's home during the period in question; however, she clearly withheld information regarding his leaving the household on numerous occasions as well as the income he contributed which also is considered to be an IPV.

- 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 15th Day of March, 2012.

**Cheryl Henson
State Hearing Officer**