



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

June 27, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on the SNAP Administrative Disqualification Hearing held June 5, 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 withheld information about your household composition and income 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 two (2) years will be applied. Your disqualification from SNAP will begin effective August 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-988

**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 on June 27, 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 June 5, 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; Chapter 9.1.A.1.b(2)

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 West Virginia Income Maintenance Manual, Chapter 1.2
- D-2 Food Stamp Claim Determination form and supporting documentation
- D-3 Code of Federal Regulations, 7 CFR §273.16
- D-4 Combined Application and Review form (CAF) and Rights and Responsibilities form dated January 28, 2011
- D-5 Case comments screen prints, entry dates August 22, 2011, through November 7, 2011
- D-6 Statement dated November 7, 2011
- D-7 Income verification
- D-8 Verification from ----- County Sheriff's Tax Office
- D-9 Department of Motor Vehicles screen prints
- D-10 Department of Motor Vehicles screen prints
- D-11 West Virginia Income Maintenance Manual, Chapter 20.6
- D-12 Notification of Intent to Disqualify; Waiver of Administrative Disqualification Hearing form
- D-13 West Virginia Income Maintenance Manual, Chapter 20.2

VII. FINDINGS OF FACT:

- 1) The Department is alleging an act of Intentional Program Violation ("IPV") in the Defendant's case due to her withholding information regarding household composition and income – specifically the presence of her husband and his earned income from employment – affecting the Defendant's eligibility for SNAP, formerly known as the Food Stamp Program.

- 2) The hearing convened as scheduled at 10:00 a.m., and as of 10:15 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) Cassandra Burns, representative for the Department, presented a SNAP application document and Rights and Responsibility form (Exhibit D-4) signed by the Defendant on August 22, 2011. On this document, the Defendant reported herself and her children as residing in her home and no earned income from employment.
- 5) Ms. Burns presented income verification from -----, Inc. (Exhibit D-7), for ----- . This verification revealed that the Defendant's spouse was employed continuously from August 5, 2011, through December 30, 2011. This verification also provided ----- address as ----- West Virginia; this is the same address provided by the Defendant on Exhibit D-4.
- 6) Ms. Burns presented verification from the ----- County Sheriff's Tax Office (Exhibit D-8) and the Department of Motor Vehicles (Exhibits D-9 and D-10). These documents all show the Defendant and her spouse, -----, listing the same address. A statement taken from the Grievant's neighbor (Exhibit D-6) noted that the Grievant and her husband "...lived next door well over 5 years," and that they resided "...in that home ever since they bought it."
- 7) At §9.1.A.1.b(2), the West Virginia Income Maintenance Manual states that spouses "...who live together must be in the same [assistance group], even if they do not purchase and prepare meals together."
- 8) Ms. Burns testified that as a result of the Defendant withholding this household composition and income information, she received an overissuance (Exhibit D-2) of

SNAP benefits totaling \$1202.00 between August 2011, and November 2011. Ms. Burns confirmed that the Defendant has one prior IPV offense, and that the proposed IPV would be a second offense.

9) 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 her household income and composition. Verification showed that the Defendant did not report her spouse in her household and did not report any earned income in the home, while her husband was living with her and working.
- 2) The Department also clearly established the intent of the Defendant to provide misleading information to receive SNAP benefits for which she would not have otherwise been entitled. By withholding information regarding her household composition and income, the Defendant caused an overissuance of SNAP benefits in the amount of \$1202.00. 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 twenty-four (24) months to begin effective August 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 June, 2012.

Todd Thornton
State Hearing Officer