



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

June 24, 2009

-----and -----

Dear -----and -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 5, 2009 for the purpose of determining whether or not an Intentional Program Violation occurred requiring a repayment of an overissuance of Supplemental Nutrition Assistance Program (SNAP) benefits.

In arriving at a decision, the State Hearings 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 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 ' 20.2 and Code of Federal Regulations- 7 CFR ' 273.16).

The information submitted at your hearing revealed that that you intentionally misrepresented your household composition and received benefits for which you were not entitled.

It is the decision of the State Hearings Officer to **uphold** the decision of the Department to impose an Intentional Program Violation and repayment of SNAP benefits.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

Cc: Erika H. Young, Chairman, Board of Review
Christine Allen, Repayment Investigator

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

-----and -----,

Defendant and Co-Defendant,

v.

Action Number: 09-BOR-1102

**West Virginia Department of
Health and Human Resources,**

Respondent.

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 5, 2009 for -----and ----- . 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 Administrative Disqualification Hearing was convened on June 5, 2009.

II. PROGRAM PURPOSE:

The Program entitled Supplemental Nutrition Assistance Program (SNAP) is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The purpose of 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 EBT benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

III. PARTICIPANTS:

Christine Allen, Repayment Investigator

Presiding at the Hearing was Kristi Logan, State Hearing Officer and a member of the State Board of Review.

The hearing was held by video conference.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether or not Defendants committed an Intentional Program Violation requiring a repayment of SNAP benefits.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 1.2 E, 9.2 A(1) and 20.2
Code of Federal Regulations- 7 CFR ' 273.16

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Administrative Disqualification Hearing Summary
- D-2 SNAP Claim Determination Form
- D-3 SNAP Claim Calculation Sheet
- D-4 SNAP Issuance History/Disbursement Screen (IQFS) from Rapids Computer System
- D-5 SNAP Allotment Determination Screen (EFAD) from Rapids Computer System
- D-6 Case Members History Screen (AQCM) from RAPIDS Computer System
- D-7 Case Comments (CMCC) from RAPIDS Computer System
- D-8 Placement Information from FACTS Computer System
- D-9 Case Narrative (TRNA) from OSCAR Computer System
- D-10 Service Site Waiting List Screen (CSWD) from RAPIDS Computer System
- D-11 Combined Application Form dated June 23, 2008
- D-12 Rights and Responsibilities Form dated June 23, 2008
- D-13 SNAP Notification Letter dated August 19, 2008
- D-14 Pre-Hearing Conference Appointment Letters to -----
- D-15 Pre-Hearing Conference Appointment Letters to ----
- D-16 Notification of Intent to Disqualify Letter to -----
- D-17 Notification of Intent to Disqualify Letter to ----
- D-18 WV Income Maintenance Manual § 1.2 E
- D-19 WV Income Maintenance Manual § 9.1A(1)
- D-20 WV Income Maintenance Manual § 20.1
- D-21 Code of Federal Regulations- 7 CFR ' 273.16

Defendants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from Department of Health and Human Resources' State Repayment Investigator, Christine Allen, on April 28, 2009. The Department contends that the Defendants have committed an Intentional Program Violation (IPV) and is recommending that the Defendants be disqualified from participation in SNAP for a period of one (1) year and a repayment of SNAP benefits received for which they were not eligible for.

- 2) The Defendants were notified by Notification of Intent to Disqualify letters dated April 16, 2009 that the Department had reason to believe they intentionally violated the SNAP program by failing to report accurate household composition (D-16 and D-17). The result was an overpayment of \$477 in SNAP benefits.
- 3) On August 18, 2008 Defendants reported to the [REDACTED] County DHHR office the birth of their son, -----, born July 3, 2008. They presented -----'s Social Security card and hospital birth certificate to their caseworker for verification and he was added to their SNAP benefits effective September 2008 (D-7 and D-10).
- 4) On September 18, 2008 the caseworker was notified by Social Services that ----- had been placed in DHHR physical and legal custody on July 7, 2008 immediately after his discharge from the hospital (D-7, D-8 and D-9). He was placed in a foster care.
- 5) The Department contends that since ----- did not reside with the Defendants when they reported his birth, they were not eligible to receive SNAP benefits for him. The Defendants made a false statement in order to receive benefits for which they were not eligible for. The Department requests disqualifications for one (1) year from the SNAP program for Defendant and Co-Defendant and a repayment of SNAP benefits of \$477.
- 6) WV Income Maintenance Manual § 1.2 E states:

The client's responsibility is to provide information about his circumstances so the Worker is able to make a correct decision about his eligibility. When the client is not able to provide the required verification, the Worker must assist him. The client must be instructed that his failure to fulfill his obligation may result in one or more of the following actions:

- Denial of application
- Closure of the active Assistance Group (AG)
- Removal of the individual from the AG
- Repayment of benefits
- Reduction in benefits

- 7) WV Income Maintenance Manual § 9.1 A(1) states:

The SNAP AG must include all eligible individuals who both live together and purchase and prepare their meals together.

- 8) WV Income Maintenance Manual § 20.2 states:

When an AG has been issued more Food Stamps than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation (UPV) or an Intentional Program Violation (IPV) claim. The claim is the difference between the coupon entitlement of the AG and the coupon allotment the AG was entitled to receive.

- 9) Code of Federal Regulations- 7 CFR ' 273.16 states:

An 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 relating to the use, presentation, transfer, acquisition, receipt or possession of Food Stamp coupons.

VIII. CONCLUSIONS OF LAW:

- 1) In order for an Intentional Program Violation to be established, it must be shown by clear and convincing evidence that the Defendants intentionally made a false statement or withheld or concealed facts from the Department.
- 2) Policy dictates that it is the responsibility of the SNAP recipients to report accurate household information so that a correct determination of benefits can be made. Defendants reported their son in their household in August 2008 when he had been removed from their custody in July 2008.
- 3) Defendants made a false statement and intentionally misrepresented their household composition. As a result, Defendants were issued SNAP benefits for which they were not entitled to receive. Defendants will be required repay the SNAP overissuance of \$477.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposition of the Department to impose an Intentional Program Violation for one (1) year and repayment of SNAP benefits in the amount of \$477 against Defendant and Co-Defendant.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 24th Day of June, 2009.

**Kristi Logan
State Hearing Officer**