



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

August 11, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 24, 2009 for the purpose of determining if an Intentional Program Violation occurred.

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. These regulations provide that 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. 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 (Code of Federal Regulations - 7 CFR § 273.16).

The information submitted at your hearing revealed that you withheld information regarding your Income Retirement Account from the Department and received SNAP benefits for which you were not eligible..

It is the decision of the State Hearings Officer to **Uphold** the proposal of the Department to impose an Intentional Program Violation, first offense, against you effective September 2009.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review
Christine Allen, Repayment Investigator

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

-----,

Defendant,

v.

Action Number: 09-BOR-1298

**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 July 24, 2009 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 July 24, 2009.

II. PROGRAM PURPOSE:

The Program entitled Supplemental Nutrition Assistance Program (SNAP) is 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:

-----, Defendant
Christine Allen, Repayment Investigator

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

This hearing was held by videoconference.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether or not Defendant committed an Intentional Program Violation.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 1.2, 9.1, 11.3 and 11.4
Code of Federal Regulations- 7 CFR § 273.16

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 SNAP Claim Determination Form
- D-3 SNAP Issuance History Screen (IQFS) from RAPIDS Computer System
- D-4 SNAP Allotment Determination Screen (EFAD) from RAPIDS Computer System
- D-5 Case Members History (AQCM) from RAPIDS Computer System
- D-6 Case Comments (CMCC) from RAPIDS Computer System
- D-7 Benefit Recovery Referral Screen (BVRF) from RAPIDS Computer System
- D-8 Financial Statement from [REDACTED] dated September 22, 2006
- D-9 Combined Application Forms dated December 1, 2005 and September 22, 2006
- D-10 Rights and Responsibilities Forms dated December 1, 2005 and September 22, 2006
- D-11 Expedited Services Screening Forms dated November 21, 2005
- D-12 Notification of SNAP Overpayment dated March 25, 2009
- D-13 Notification of Intent to Disqualify dated March 25, 2009
- D-14 WV Income Maintenance Manual § 1.2 E
- D-15 WV Income Maintenance Manual § 11.4 HH
- D-16 WV Income Maintenance Manual § 20.1 and 20.2
- D-17 Code of Federal Regulations- 7 CFR § 273.16

Defendant's 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' Repayment Investigator, Christine Allen, on June 3, 2009. The Department contends that the Defendant has committed an Intentional Program Violation (IPV) by failing to report stock held in an Income Retirement Account (IRA) and is recommending that she be disqualified from participation in SNAP for a period of one (1) year.
- 2) Defendant applied for SNAP benefits on November 21, 2005. At her application, Defendant reported that her household's liquid assets totaled \$1,000 (D-6 and D-9). SNAP benefits were approved for November 2005 and ongoing.
- 3) Defendant applied for Medicaid on September 22, 2006 and reported owning 250 shares of [REDACTED] stock (D-6). Verification of this stock was obtained and was found to be valued at \$7,162.72. This stock was Defendant's IRA from her employment at [REDACTED] which was established in November 2002 (D-8). Defendant's SNAP benefits were terminated effective October 2006.
- 4) The Department argues Defendant intentionally withheld information regarding her IRA at her SNAP application and subsequent reviews, receiving SNAP benefits for which she was not eligible. Defendant started the IRA in 2002 and did not report the asset until 2006.
- 5) Defendant testified she was unsure whether or not she reported the stock for [REDACTED]. The stock was inaccessible until age 62. She eventually sold the stock but had to apply for hardship waiver. She had to provide verification of foreclosure and outstanding bills in order to liquidate the money.

Defendant stated she did not intentionally withhold anything from the Department and could not understand why this issue wasn't resolved before now.

- 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 § 11.3 (effective August 2001) states:

Maximum Allowable Assets for SNAP

\$2,000 All AGs except as below

\$3,000 When at least one AG member is age 60 or over or disabled

8) WV Income Maintenance Manual § 11.4 AA(3) (effective June 2004) states:

Food Stamps, WV WORKS and AFDC Groups: Individual Retirement Accounts (IRA's), Simplified Employer Pension Plans (SEPs), which are considered to be IRA's, and funds held in KEOGH plans which do not involve the AG member in

a contractual relationship with individuals who are not AG members, are counted as assets. The amount counted is the total cash value of the account or plan, minus the amount of the penalty, if any, that would be applied for the early withdrawal of the entire amount.

9) WV Income Maintenance Manual § 9.1 A(2) states:

Persons who have been found guilty of an Intentional Program Violation (IPV) are disqualified [from SNAP] as follows:

- 1st offense: 1 year

- 2nd offense: 2 years

- 3rd offense: Permanent

10) 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

11) 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 [SNAP] 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 Defendant intentionally made a false or misleading statement or withheld or concealed facts from the Department.
- 2) Policy dictates that it is the responsibility of SNAP recipients to report accurate household information at application so that a correct determination of benefits can be made. According to the documentation provided by the Department, Defendant had an IRA account since 2002 and failed to report the asset until 2006. The amount in the IRA account exceeded the asset limit for SNAP.
- 3) Defendant failed to report accurate information and intentionally misrepresented her household's assets. As a result, Defendant was issued SNAP benefits for which she was not entitled to receive.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to impose an Intentional Program Violation, first offense, against Defendant effective September 2009.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 11th day of August 2009.

**Kristi Logan
State Hearing Officer**