



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 7, 2009

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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 whether or not 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 the Supplemental Nutrition Assistance Program (SNAP) is based on current policy and regulations. These regulations provide that an 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 (Code of Federal Regulations - 7 CFR § 273.16).

The information which was submitted at your hearing revealed that you intentionally reported false information regarding your employment at your SNAP application and received 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 and 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-1299**

**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:**

Christine Allen, Repayment Investigator

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

#### **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 E, 9.1 A and 20.1  
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 Sheet
- D-3 SNAP Claim Calculation Sheets
- D-4 SNAP Issuance History Screen (IQFS) from RAPIDS Computer System
- D-5 SNAP Allotment Determination Screens (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 Benefit Recovery Referral Screen (BVRF) from RAPIDS Computer System
- D-9 Allocations Screen (TREE) from OSCAR Computer System
- D-10 Employment Verification from [REDACTED] Trucking
- D-11 Combined Application Form dated February 13, 2009
- D-12 Rights and Responsibilities Form dated February 13, 2009
- D-13 Repayment Notification Letter dated May 11, 2009
- D-14 Notification of Intent to Disqualify Letter dated May 11, 2009
- D-15 WV Income Maintenance Manual § 1.2 E
- D-16 WV Income Maintenance Manual § 10.3 EE
- D-17 WV Income Maintenance Manual § 20.1
- D-18 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) and is recommending that he be disqualified from participation in SNAP for a period of one (1) year.

- 2) Defendant was notified of the hearing date by certified letter dated June 3, 2009. He signed for the appointment letter June 26, 2009. Defendant failed to appear at the hearing or provide good cause for his failure to do so.
- 3) Defendant applied for SNAP benefits on February 13, 2009. He reported no income. The caseworker questioned Defendant as to how he was able to stay current with his child support payments. Defendant stated family members were paying it for him so that he would not lose his drivers' license (D-7 and D-9).
- 4) The Department verified with [REDACTED] Trucking Defendant's employment and wages from January 2009 through March 2009 (D-10). The Department contends Defendant intentionally withheld information regarding his earned income and received SNAP benefits for which he was not entitled to receive. Defendant also made a false statement at application concerning his child support payments (D-7).
- 5) 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

- 6) WV Income Maintenance Manual § 9.1 A(2)h 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

7) 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.

8) 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 was employed at the time of his SNAP application and receiving income that could be anticipated and was required to have been used in the eligibility determination.
- 3) Defendant failed to report accurate information and intentionally misrepresented his household income. As a result, Defendant was issued SNAP benefits for which he 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 7<sup>th</sup> day of August 2009.**

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**Kristi Logan  
State Hearing Officer**