



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
203 E. Third Avenue
Williamson, WV 25661**

**Joe Manchin III
Governor**

**Patsy A. Hardy, FACHE, MSN, MBA
Cabinet Secretary**

September 8, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on the Supplemental Nutrition Assistance Program (SNAP) Administrative Disqualification Hearing held August 18, 2009 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 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.

Intentional Program Violations 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 benefits. 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 and Code of Federal Regulations 7 CFR ' 273.16)

Information submitted at the hearing reveals that you intentionally provided false and misleading information about your household 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 one (1) year will be applied. Your disqualification from SNAP will begin effective October 1, 2009.

Sincerely,

Stephen M. Baisden
State Hearing 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**

-----,

Defendant,

v.

Action Number: 09-BOR-1338

**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 September 8, 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 August 18, 2009.

II. PROGRAM PURPOSE:

The purpose of the Supplemental Nutrition Assistance Program (SNAP), formerly known as the Food Stamp Program, 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 Stephen M. Baisden, State Hearing Officer and a member of the State Board of Review. Also in attendance to observe 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 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:

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Administrative Disqualification Hearing Summary.
- D-2 ES-FS-5, SNAP Claim Determination sheet.
- D-3 ES-FS-5a, SNAP Claim Calculation Sheet for 7/08, 8/08, 9/08 and 10/08.
- D-4 IQFS Screen print from RAPIDS System showing SNAP disbursement.
- D-5 EFAD Screen print from RAPIDS System showing SNAP allotment determination for each month of SNAP benefits received by Defendant.
- D-6 AQCM Screen print from RAPIDS System showing case member history.
- D-7 CMCC Screen print from RAPIDS System showing case comments made by Income Maintenance Unit case workers.
- D-8 BVCC Screen print from RAPIDS System showing case comments made by repayment worker.
- D-9 BVRF Screen print from RAPIDS System showing referral made by IM case worker to repayment worker.
- D-10 Benefit payment data from Social Security Administration showing payments made to Defendant during the period 1/1/2008 to 4/30/2009.
- D-11 Print-out from SOLQ System showing Social Security benefits received by Defendant.
- D-12 Copy of combined application and review form signed by Defendant.
- D-13 Copy of Rights and Responsibilities form signed by Defendant.
- D-14 Copy of notification letter sent to Defendant indicating approval of SNAP benefits effective 3/25/08 and notifying him that changes in the household must be reported.
- D-15 Copy of IFM-7d, appointment letter sent to Defendant from repayment worker.
- D-16 Copy of IFM-BR-44, Waiver of Administrative Disqualification Hearing form, and IFM-BR-44a, Notice of Intent to Disqualify form sent to Defendant.
- D-17 Copy of Income Maintenance Manual Chapter 1.2.E showing customer responsibility for providing accurate information.
- D-18 Copy of Income Maintenance Manual Chapter 2.2.B showing reporting requirements.
- D-19 Copy of Income Maintenance Manual Chapter 20.1 and 20.2 showing SNAP benefit claims and repayment procedures.
- D-20 Copy of the Code of Federal Regulations (CFR) §273.16 showing disqualifications for Intentional Program Violations.

VII. FINDINGS OF FACT:

- 1) The Department is alleging an act of Intentional Program Violation, or IPV, in the Defendant's case, due to income withheld during an application for SNAP, formerly known as the Food Stamp Program.
- 2) The hearing was scheduled for 11:00 a.m. on 8/18/09, and as of 11:15 a.m., the Defendant failed to appear. As set forth in regulations (7 CFR §273.16(e) (4)), and State

- 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) The Department presented the Combined Application and Review form (Exhibit D-12) from the Defendant's June 12, 2008 benefits review interview. This form was signed by the Defendant. During the same interview, the Defendant signed the Rights and Responsibilities form (Exhibit D-13). Exhibit D-12 listed no income received by the sole member of the Defendant's Income Maintenance case.
- 5) The Department obtained verification (Exhibits D-10 and D-11) that the Defendant began receiving Social Security benefits in May 2008 and continued receiving them through the overpayment period of 7/2008 – 10/2008. The verification showed continuous Social Security benefits for the Defendant during these months, including the June 2008 month of SNAP review/redetermination.
- 6) The Department presented documentation (Exhibit D-2) showing the calculation of the SNAP claim resulting from the income not counted against the Defendant's case. A claim was determined from July 2008 through October 2008 in the amount of \$616.00. Since the Department is requesting a 12-month disqualification period and in the absence of information to the contrary, it is presumed that the Defendant has received no prior intentional program violation judgments.
- 7) 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 about his Social Security benefits during a SNAP review/redetermination. The Department showed that this resulted in a SNAP over-issuance.
- 2) The Department also clearly established the intent of the Defendant to conceal or withhold this information to receive SNAP benefits for which he would not have otherwise been entitled. The Defendant reported no unearned income from any source while he was receiving Social Security benefits. 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 the Food Stamp program, or SNAP, for a period of twelve (12) months to begin effective October 1, 2009.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 18th Day of August, 2009.

Stephen M. Baisden
State Hearing Officer