



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
9083 Middletown Mall
White Hall, WV 26554**

**Joe Manchin III
Governor**

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

November 3, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on the Supplemental Nutritional Assistance Program (SNAP / Food Stamp) Administrative Disqualification Hearing held October 20, 2009 for the purpose of determining whether or not an Intentional Program Violation (IPV) occurred.

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 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 §20.2 and Code of Federal Regulations - 7 CFR §273.16).

The information submitted at the hearing revealed that you intentionally provided false and misleading information about your household composition in order to receive SNAP (formerly Food Stamp) benefits for which you were not legally 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. This disqualification will begin effective January 1, 2010.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Teresa Smith, SRI, DHHR

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

-----,

Defendant,

v.

Action Number: 09-BOR-1550

**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 November 3, 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 October 20, 2009.

II. PROGRAM PURPOSE:

The purpose of the **SNAP 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:

----- , Defendant

-----, Defendant's friend

Teresa Smith, State Repayment Investigator, WVDHHR

Presiding at the Hearing was Thomas E. Arnett, 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 the Supplemental Nutrition Assistance Program (SNAP).

V. APPLICABLE POLICY:

7 CFR §273.16 USDA Code of Federal Regulations
Common Chapters Manual Chapter 700, Appendix A
West Virginia Income Maintenance Manual, Chapter 1.2, 1.4, 2.2 9.1, 10.3, 10.4, 20.1 & 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1a Combine Application and Review form, dated 2/14/08
D-1b Combine Application and Review form, dated 3/18/09
D-1c Combine Application and Review form, dated 9/9/08
D-2 Case Comments for period 2/14/08 to 9/18/08
D-3 [REDACTED] Hospital - Medicaid Newborns, dated 3/8/09
D-4 Information from -----, dated 12/17/08
D-5 Verification of Employment Data for -----for period 12/4/07 to 10/18/08
D-6 Food Stamp [SNAP] Claim Determination
D-7 Notification of Intent to Disqualify, dated June 15, 2009
D-8 WV Income Maintenance Manual, Chapter 1.2, 1.4, 2.2 9.1, 10.3, 10.4, 20.1 & 20.2
and WVDHHR Common Chapters Manual, Section 740

Defendant's Exhibits:

Defendant's -1 Written Statement from Hope A. Isenberg dated July 7, 2009

VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from the Department on July 22, 2009. The Department contends that the Defendant has committed an Intentional Program Violation and is recommending that the Defendant be disqualified from participation in the SNAP (Food Stamp) Program for a period of one (1) year. More specifically, the Department has alleged that the Defendant has intentionally withheld or provided misleading information about her household composition beginning in March 2008 when her youngest child [REDACTED] was born. The Department contends that the child's father, ---, was not reported living in the home by the Defendant, and according to the SNAP regulatory requirements, the Defendant was required to be included in the AG (Assistance Group).

- 2) The Department presented Exhibit D-1a (Combined Application and Review Form, hereinafter CAF, signed by the Defendant on 2/14/08), D-1b (CAF signed by the Defendant on 3/18/08) and Exhibit D-1c (CAF signed by the Defendant on 9/9/08) to show that the Defendant intentionally withheld information to receive SNAP benefits when she did not report -----was living with her. The Department conceded that -----was not required by law to be included in the February 2008 application, however, the Defendant's signature on the March 2008 and September 2008 application warrants a finding of an Intentional Program Violation as the Department contends -----was residing in the home.
- 3) Exhibit D-2, Case Comments dated 9/4/08, indicates that the Department's Child Protective Services division visited the Defendant's home and determined that -----was residing with the Defendant. Upon further investigation, the Department contacted -----in December 2008 (Exhibit D-4), and -----indicated in her response that she rented a trailer to the Defendant and ---, at [REDACTED] WV [REDACTED] during the period November 2007 through October 2008. The Department requested and received employment verification from -----employer (Exhibit D-5) for the period March 2008 through September 2008 and determined that he reported residing at [REDACTED] WV [REDACTED]. His current address was also provided in Exhibit D-5 and this matched the Defendant's new address at [REDACTED] WV [REDACTED].
- 4) The Department's repayment investigator contends that -----and his income should have been included in the Defendant's case during the period for which the Defendant received SNAP benefits (April 2008 through September 2008). The Department submitted Exhibit D-6 (Food Stamp Claim Determination) and noted that because the Defendant intentionally withheld information about her household composition, the AG received \$2,428 in SNAP (Food Stamp) benefits to which it was not legally entitled.
- 5) Department's Exhibits D-1a, D-1b and D-1c include the DFA-RR-1 - the Rights and Responsibilities form completed and signed by the Defendant on the day each of the CAF's were completed. The Defendant marked "yes" to item #4 which states:

I understand if I am found (by court action or an administrative disqualification hearing) to have committed an act of intentional program violation, I will not receive Food Stamp benefits as follows: First Offense – one year; Second Offense – two years; Third Offense- permanently. In addition, I will have to repay any benefits received for which I was not eligible.

By signing the DFA-RR-1, the Defendant certified that she read, understood, and accepted the rights and responsibilities and that all of the information she provided was true and correct.

- 6) The Defendant and ----- contend that -----was not residing with the Defendant during the period in question. The Defendant testified that he visited the household on a daily basis but he was not residing with her. -----testified that he didn't bother changing his mailing address with his employer but that he was actually residing with his aunt during this period as he and the Defendant had broken-off their relationship for a while. Defendant's Exhibit 1 is a written statement from -----aunt [REDACTED] wherein [REDACTED] indicates -----lived with her during the period April 4, 2008 to September 30, 2008.
- 7) West Virginia Income Maintenance Manual, Chapter 9.1 provides information specific to who must be included in the SNAP (Food Stamp) assistance group. This section indicates that the SNAP AG must include all eligible individuals who both live together and purchase and prepare their meals together. Section 9.1.A.b.(2) states that natural or adopted children and stepchildren who are under 22 years of age and who live with a parent must be in the same AG as the parent.
- 8) West Virginia Income Maintenance Manual, Chapter 10.4:
This section contains policy relating income disregards and deductions and to the computation of and eligibility for Food Stamp benefits. It also states: To determine the coupon allotment, find the countable income and the number in the benefit group {emphasis added}.
- 9) West Virginia Income Maintenance Manual, Chapter 1.2 (E):
The client's responsibility is to provide information about his circumstances so the worker is able to make a correct decision about his eligibility.
- 10) West Virginia Income Maintenance Manual, Chapter 20.2:
When an AG (assistance group) has been issued more Food Stamps than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation or Intentional Program Violation claim. The claim is the difference between the allotment the client received and the allotment he should have received.
- 11) West Virginia Income Maintenance Manual, Chapter 20.2 (C) (2):
Once an IPV (Intentional Program Violation) is established a disqualification penalty is imposed on the AG (assistance group) members who committed the IPV. The penalties are as follows: (Chapter 9.1, A, 2, h) 1st Offense: 1 year (Disqualification), 2nd Offense: 2 years (Disqualification), 3rd Offense: Permanent
- 12) Common Chapters Manual 740.11.D states as follows:

Intentional Program Violation - For the purpose of determining through an Administrative Disqualification Hearing whether or not a person has committed an Intentional Program Violation, the following criteria will be used. 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 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.

VIII. CONCLUSIONS OF LAW:

- 1) The Defendant's case is predicated on -----testimony and a written statement by his aunt who was not present at the hearing. The facts of this case, however, reveal that the Defendant and --- were residing together during the period in which the Defendant completed two (2) Combined Application and Review Forms (CAF) – March 18, 2008 and September 9, 2008 – and the Defendant intentionally withheld information specific to her household composition. I find the Defendant's case unconvincing as the Defendant and -----shared a rental agreement together during the period in question and his employment address during this period matched the rental address. Moreover, the Department's Child Protective Services division confirmed - ----was residing with the Defendant in early September 2008 – this evidence further damages the credibility of the statement provided by -----aunt.
- 2) The evidence reveals that the Defendant knowingly provided false and misleading information about her household composition in order to receive SNAP/Food Stamp benefits for which she was not legally entitled. This clearly establishes intent.
- 3) The regulations that govern SNAP/Food Stamp benefits state that a program violation has occurred when an individual intentionally makes a false or misleading statement, or misrepresented, concealed or withheld facts relating to the use, presentation, transfer, acquisition, receipt or possession of Food Stamp benefits.
- 4) There is clear and convincing evidence that the Defendant committed an intentional program violation as defined in the SNAP / Food Stamp policy and regulations.
- 5) In accordance with Food Stamp policy and regulations, an Intentional Program Violation has been committed and a disqualification penalty must be applied. The disqualification for a first offense is one year.
- 6) Only the Defendant is subject to this disqualification. The one (1) year disqualification will begin effective January 1, 2010.

IX. DECISION:

Intentionally making of false or misleading statements or misrepresenting facts to secure SNAP/Food Stamp benefits constitutes a clear violation of the regulations. Based on evidence presented, I find the violation intentional.

The Department's proposal to apply a one (1) year SNAP/Food Stamp benefit disqualification penalty is **upheld**.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 3rd Day of November, 2009.

**Thomas E. Arnett
State Hearing Officer**