



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 West Washington St.
Charleston, WV 25313

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

March 30, 2009

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of the Supplemental Nutrition Assistance Program (SNAP) Administrative Disqualification Hearing held on February 25, 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 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 Supplemental Nutrition Assistance 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 Supplemental Nutrition Program Regulations, or any State statute relating to the use presentation, transfer, acquisition, receipt or possession of SNAP 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).

Information submitted at the hearing reveals that you intentionally provided false and misleading information about your household composition in order to receive SNAP 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 April 1, 2009.

Sincerely,

Jennifer Butcher
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Christina Saunders, RI, DHHR

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

-----,

Claimant,

v.

Action Number: 08-BOR-1578

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

Respondents.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from an Administrative Disqualification Hearing concluded on March 30, 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 February 25, 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 the **Supplemental Nutrition Assistance 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:

Christina Saunders, State Repayment Investigator, DHHR

Presiding at the Hearing was Jennifer Butcher, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION(S) TO BE DECIDED:

The question to be decided is whether or not the Claimant committed an Intentional Program Violation (IPV) and should be disqualified for a specified period from participation in the Food Stamp Program.

V. APPLICABLE POLICY:

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

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Benefit Recovery Referral dated March 7, 2008
- D-2 West Virginia Income Maintenance Manual (WVIMM) Chapter 1.2
- D-3 SNAP calculation sheets for benefits received and over issued from November, 2007 through March, 2008
- D-4 Federal Food Stamp Regulations 7CFR273.16C
- D-5 Application for SNAP benefits signed and dated November 13, 2007
- D-6 DFA-RR-1, Right and Responsibilities signed on November 13, 2007
- D-7 Statement from Front End Fraud Unit stating Claimant's child was not in the home dated March 7, 2008
- D-8 West Virginia Income Maintenance Manual (WVIMM) Chapter 20.6A
- D-9 Notification letter of Intent to Disqualify dated May 15, 2008
- D-10 Notice of Waiver of Administrative Disqualification Hearing, client signed, no date
- D-11 West Virginia Income Maintenance Manual (WVIMM) Chapter 20.2
- D-12 West Virginia Income Maintenance Manual (WVIMM) Chapter 20.2.3
- D-13 West Virginia Income Maintenance Manual (WVIMM) Chapter 20.2E
- D-14 West Virginia Income Maintenance Manual (WVIMM) Chapter 20.2F.1

VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from State Repayment Investigator, Christina Saunders, on June 19, 2008. Ms. Saunders contends that the Claimant has committed an Intentional Program Violation and is recommending that the Claimant be disqualified from participation in the Supplemental Nutrition Assistance Program (hereinafter SNAP) for a period of one (1) year.
- 2) The first notification of the August 5, 2008 hearing was mailed to the Claimant on July 1, 2008 via first class mail as the Claimant is a current recipient of benefits and resides at an address known by the Department.
- 3) The hearing was scheduled to convene at 11:30 a.m., however, as of 11:45 a.m., the Claimant failed to appear. As set forth in regulations [7 CFR §273.16 (e) (4)], and State policy (West Virginia Department of Health and Human Resources Common Chapters Manual, 740.20), the hearing was conducted without the Claimant in attendance. During the testimony from the Department, it was indicated the case was closed and, therefore, the notification letters needed to be sent out restricted registered mail. According to the Department, the second notification letter regarding a February 19, 2009 hearing was mailed to the Claimant on January 13, 2009 via restricted registered mail because the Claimant is not a current recipient of benefits.

- 4) The Department contends that the Claimant intentionally violated SNAP regulations by making a false statement on her application for SNAP benefits dated November 13, 2007 and by signing her name to the document (Exhibit D-5).
- 5) The Department provided documentation of a statement from [REDACTED] stating that the Claimant's child, [REDACTED] has lived in his home since birth and that they [REDACTED] were granted temporary custody of the child by Judge [REDACTED] for the period of February 13, 2008 until the next hearing date scheduled for August 11, 2008. (Exhibit D-7)
- 6) The Department's Exhibit D-3 (Food Stamp Claim Determination) demonstrates that by providing false and misleading information about the composition of her household, the Claimant received \$625.00 in SNAP benefits for which she was not legally entitled during the period of November, 2007 through March 31, 2008.
- 7) The Department cited the Rights and Responsibilities form (Exhibit D-6) that was completed and signed by the Claimant on the day of her application (November 13, 2007). The Claimant 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 SNAP 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 Claimant certified that she read, understood, and accepted the rights and responsibilities and that all of the information she provided was true and correct.

- 8) West Virginia Income Maintenance Manual §10.4:

This section contains policy relating to income disregards and deductions and to the computation of and eligibility for SNAP benefits. It also states: To determine the coupon allotment, find the countable income {emphasis added} and the number in the benefit group.

- 9) West Virginia Income Maintenance Manual §1.2 (E):

The client's responsibility is to provide information about her circumstances so the worker is able to make a correct decision about her eligibility.

- 10) West Virginia Income Maintenance Manual §20.2:

When an AG (assistance group) has been issued more SNAP benefits 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 she should have received.

- 11) West Virginia Income Maintenance Manual §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: (§9.1, A, 2, h) 1st Offense: 1 year (Disqualification) Second Offense – two years: Third Offense- permanently. In addition, the AG will have to repay any benefits received for which they were not eligible.

- 12) Common Chapters Manual §740.11.D. 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 SNAP 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.
- 13) This State Hearing Officer received notification dated February 28, 2009 from Claimant giving the reason why she was unable to attend the hearing. The Claimant's letter stated she was just hired at [REDACTED] and was on a ninety (90) day probation period. Therefore, she is not able to take any time off. This Hearing Officer called the Claimant's home to question the date of hire and to see if adequate time was given from date of hire to requesting the rescheduling of the hearing. Ten (10) days notice must be given before rescheduling can be considered. The Department was not notified until nine (9) days after the scheduled hearing convened, therefore a continuance was not granted.

VIII. CONCLUSIONS OF LAW:

- 1) The policy and regulations that govern SNAP state that a SNAP 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 SNAP benefits.
- 2) The evidence reveals that on November 13, 2007, the Claimant provided false and misleading information about her household composition in order to receive SNAP benefits for which she was not legally entitled. This clearly establishes intent.
- 3) The evidence is clear and convincing that the Claimant intentionally committed a SNAP violation as defined in the SNAP policy and regulations.
- 4) In accordance with SNAP policy and regulations, an Intentional Program Violation has been committed and a disqualification penalty must be applied. The disqualification for a first time offense is twelve months (one year).
- 5) Only the Claimant is subject to this disqualification. The 1-year disqualification will begin effective May 1, 2009

IX. DECISION:

Intentionally making of false or misleading statement or misrepresenting 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 disqualification period will begin effective May 1, 2009.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 30th Day of March, 2009.

Jennifer Butcher
State Hearing Officer