



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 4, 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).

Information submitted at the hearing fails to demonstrate that you intentionally made a false or misleading statement or misrepresented, concealed or withheld facts about your household composition in order to receive SNAP (formerly Food Stamp) benefits.

It is the decision of the State Hearing Officer that an Intentional Program Violation was not committed by you. The Department's proposal to apply a SNAP/Food Stamp benefit disqualification period of one year is therefore **reversed**.

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-1614

**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 4, 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 witness

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, 9.1, 10.4 & 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 ----- Combine Application and Review (CAF) form and DFA-RR-1 Rights and Responsibilities, dated 5/29/09 and Case Comments for period 12/2/08 through 6/22/09
- D-2 ----- Combine Application and Review (CAF) form dated 5/5/09 and DFA-RR-1 (Rights and Responsibilities) dated 6/1/09 accompanied by Case Comments for period 4/3/09 through 6/22/09
- D-3 Case Comments documented on 6/22/09 (-----/ -----case)
- D-4 Food Stamp (SNAP) Claim Determination Sheet for June 2009 and July 2009
- D-5 Notification of Intent to Disqualify dated July 2, 2009
- D-6 WV Income Maintenance Manual, Chapter 1.2, 1.4, 9.1, 20.1, 20.2 & WVDHHR Common Chapters Manual, Section 740

Defendant's Exhibits:

Defendant's-1 Correspondence from [REDACTED] Manager [REDACTED] Apartment accompanied by the Defendant's Lease Agreement, signed 11/30/05

VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from the Department on August 7, 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.
- 2) The Department purported that the Defendant and her daughter, -----, came to the Department of Health and Human Resources, hereinafter Department, and completed a Combined Application and Review Form (CAF) on May 5, 2009 (Exhibit D-2) for continued Medicaid coverage as -----post-partum coverage expired at the end of the month. ----- was expected to graduate from high school on 5/28/09. On this occasion, the Defendant reported that there were four (4) people residing in her home.

- 3) On May 29, 2009, the Defendant completed a CAF (Exhibit D-1) for her SNAP (Food Stamp) review and reported that four (4) people reside in her home, all of which were included in the SNAP Assistance Group (AG). Among those included was the Defendant's daughter, -----and -----'s child (Defendant's grandchild).
- 4) On June 22, 2009, the Defendant's daughter (-----) and the father of -----'s child (-----) appeared at the Department and reported the following (See Exhibit D-3): "They stated that ----- previously lied and her and ----- have been living with ----- since ----- was born [Exhibits D-1 and D-2 indicate ----- was born on 3/31/09]. He [-----] said they are getting married in the next few weeks." As a result, the Department contends the Defendant was not truthful about her household composition. The Department submitted Exhibit D-4 to show the Defendant received \$697 in SNAP benefits during the months of June and July 2009 that she was not legally entitled to receive.
- 5) The Defendant testified that her daughter and grandchild lived with her until June 22, 2009. The Defendant stated that she called the Department on June 22, 2009 and reported that her daughter moved out. Verification of the Defendant's call is documented in case comments dated 6/22/09 included with Exhibit D-1. She believes that her daughter has been manipulated to lie about her circumstances so they [-----'s family] can control everything. She was told that because her daughter received SNAP benefits in her case, that she would not be eligible to receive benefits in her own case until August 2009. Defendant's Exhibit-1 was submitted to show that her daughter was included in her lease agreement until recently.
- 6) ----- testified that the Defendant's daughter [-----] and ----- were at the Defendant's home virtually every time she was there. She indicated that while the Defendant's daughter visited -----'s home a lot, she always seemed to be at her mother's house for dinner.
- 7) 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.
- 8) 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.
- 9) West Virginia Income Maintenance Manual, Chapter 20.2:
When a AG (benefit 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.
- 10) 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

11) 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 policy and regulations that govern the SNAP / Food Stamp Program 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.
- 2) The evidence to support a finding of an Intentional Program Violation must be clear and convincing.
- 3) The Defendant's daughter reported that she lied about her living arrangements since her child was born, however, the credibility of this statement is suspect. Moreover, the Defendant's statement that she called to report that her daughter moved out on June 22, 2009 is corroborated by the evidence. The documentation further supports the Defendant's contention that her daughter was not to be eligible for SNAP benefits until August 2009 as SNAP benefits issued in her case for July 2009 could not be stopped.
- 4) Based on the evidence, the Defendant did not commit an Intentional Program Violation.

IX. DECISION:

The Department's proposal to apply a SNAP/Food Stamp benefit disqualification period of one year is **reversed**.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 4th Day of November, 2009.

**Thomas E. Arnett
State Hearing Officer**