



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

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

October 21, 2009

-----and -----

Dear -----and -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 29, 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 submitted at your hearing revealed that you intentionally reported false information at your SNAP application regarding your household composition.

It is the decision of the State Hearings Officer to **Uphold** the proposal of the Department to impose an Intentional Program Violation against you effective December 2009.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

cc: Chairman, Board of Review
Rusty Udy, Repayment Investigator

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

-----and -----,

Defendant and Co-Defendant,

v.

**Action Number: 09-BOR-1656
09-BOR-1657**

**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 29, 2009 for -----and ----- . 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 September 29, 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:

Rusty Udy, Repayment Investigator

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

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V. QUESTIONS TO BE DECIDED:

The question to be decided is whether or not Defendant and Co-Defendant committed an Intentional Program Violation.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 1.2 E and 9.1 A
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 Form
- D-3 SNAP Claim Calculation Sheets
- D-4 SNAP Issuance History Screens (IQFS) from RAPIDS Computer System
- D-5 Non-Financial Eligibility Determination Screens (CNFF) 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 Fact Sheet Screening Form dated April 15, 2009
- D-9 Correspondence from State of [REDACTED] Department of Children and Families dated April 23, 2009
- D-10 Rights and Responsibilities Form and Combined Application Form dated April 15, 2009
- D-11 Pre-Hearing Conference Appointment Letters for Defendant and Co-Defendant dated July 30, 2009
- D-12 Administrative Disqualification Waivers and Notification of Intent to Disqualify Letters dated July 20, 2009
- D-13 WV Income Maintenance Manual § 1.2 E, 20.1 and 20.2
- D-14 Code of Federal Regulations- 7 CFR § 273.16

Defendants' 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, Rusty Udy, on August 13, 2009. The Department contends that the Defendants have committed an Intentional Program Violation (IPV) and is recommending that they be disqualified from participation in SNAP for a period of one (1) year.
- 2) Defendants were notified of the hearing date by letters dated August 13, 2009. Defendants failed to appear at the hearing or provide good cause for their failure to do so.

- 3) Defendants applied for SNAP benefits on April 15, 2009. They reported their household consisted of themselves and their daughter, Haley Lafferty. SNAP benefits were approved for an Assistance Group (AG) of three (3) (D-1 and D-7).
- 4) The Department verified with the State of Florida's Department of Children and Families that -----was removed from her parents' custody on November 19, 2008 and placed in foster care (D-9).

The Department contends that Defendants falsely reported their daughter as residing in their home at SNAP application when in fact she has never been in their custody since her birth. Defendants willfully misrepresented their household composition and received SNAP benefits for which they were not eligible.

- 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(1) states:

The Assistance Group: Who Must Be Included

The SNAP AG must include all eligible individuals who both live together and purchase and prepare their meals together.

When an individual, who is included in an AG, is absent or is expected to be absent from the home for a full calendar month, he is no longer eligible to be included in the AG, and must be removed after proper notice.

- 7) 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

- 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) Defendants made a false statement at their SNAP application by reporting their daughter as residing in their household. Defendants' daughter has been in foster care since her birth, and has never been in their custody.
- 3) It was clearly shown by the Department that Defendants willfully reported inaccurate information at application and received SNAP benefits for which they were not entitled to receive.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to impose an Intentional Program Violation against Defendant and Co-Defendant effective December 2009.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 21st day of October 2009.

Kristi Logan
State Hearing Officer