



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

Joe Manchin III  
Governor

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

October 23, 2009

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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 October 21, 2009 for the purpose of determining whether or not you committed an Intentional Program Violation (IPV).

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 SNAP 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 showed that you intentionally withheld information about your household's earned income in order to receive SNAP for which you were not entitled.

It is the decision of the State Hearing Officer to **uphold** the Agency's proposal to apply a one (1) year SNAP disqualification penalty against you based on an Intentional Program Violation. Your penalty begins December 1, 2009.

Sincerely,

Cheryl Henson  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review/Jennifer Butcher, Kanawha DHHR

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

-----,

**Defendant,**

**v.**

**Action Number: 09-BOR-1817**

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

**DECISION OF STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from an Administrative Disqualification Hearing concluded on October 21, 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 21, 2009.

It should be noted here that the Defendant was notified by regular United States mail delivery of this hearing on September 4, 2009 and has failed to appear. Her mailing address has been validated as she receives her benefits from the Department there. Let the record reflect that the Defendant's hearing was scheduled to begin October 21, 2009 at 11:00 a.m., and by 11:15 a.m. the Defendant had not appeared. The hearing is being held in her absence, and a decision will be issued based on the evidence presented today.

**II. PROGRAM PURPOSE:**

The purpose of the Supplemental Nutrition Assistance Program (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 benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

**III. PARTICIPANTS:**

Natasha Jemerison, State Repayment Investigator, Department Representative

Presiding at the Hearing 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 the Defendant committed an intentional program violation and should be disqualified for one year from participation in 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 §1.2, 9.1.A.2.h and 20.2

#### **VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

##### **Department's Exhibits:**

- D-1 Code of Federal Regulations §273.16
- D-2 Benefit Recovery Referral Screen dated April 13, 2009
- D-3 Combined Application and Review Form dated October 28, 2008
- D-4 Rights and Responsibilities form signed November 6, 2008
- D-5 Income Verification from [REDACTED] Inc. dated March 16, 2009
- D-6 Emergency Assistance and Combined application and Review Form dated February 4, 2009
- D-7 WV Income Maintenance Manual Section 1.2
- D-8 Food Stamp Claim Determination form and RAPIDS computer screens
- D-9 WV Income Maintenance Manual Section 20.2
- D-10 WV Income Maintenance Manual Section 2.2
- D-11 WV Income Maintenance Manual Section 20.6
- D-12 Notification of Intent to Disqualify dated July 23, 2009 and accompanying forms
- D-13 WV Income Maintenance Manual Section 20.2 C
- D-14 WV Income Maintenance Manual Section 20.2.E
- D-15 WV Income Maintenance Manual Section 20.2.F

##### **Claimant's Exhibits:**

None

#### **VII. FINDINGS OF FACT:**

- 1) A request for an Administrative Disqualification Hearing (ADH) was received by the Board of Review from the Department of Health and Human Resources (Department) on September 1, 2009. The Department contends that the Defendant has committed an Intentional Program Violation (IPV) and made a fraudulent statement or misrepresentation regarding her household income in order to receive SNAP (formerly known as the Food Stamp Program), and is recommending that the Defendant be disqualified from participation in SNAP for a period of one (1) year.

- 2) On or about July 23, 2009 the Department sent the Defendant a Notification of Intent to Disqualify (D-12) form, indicating that the Department had reason to believe she intentionally violated a food stamp rule. The form also included the following:

Based on the evidence developed through our investigation, the agency believes that ----- intentionally violated the food stamp program by: withholding earnings for herself [sic] and -----at review in 10/28/09. The evidence to prove this allegation consists of Employment from [REDACTED] [REDACTED] Inc for both ----- and [REDACTED] and [REDACTED] for -----.

- 3) The Department presented evidence to show that the Defendant completed a redetermination case review (D-3) for SNAP on October 28, 2008 at which time she indicated to the Department that the only income in the home was child support in the amount of one hundred fifty four dollars and ninety six cents (\$154.96). The child support was listed as being for -----. The Defendant signed the Combined Application Form and Rights and Responsibilities for this review on November 6, 2008.
- 4) The Department also provided evidence (D-6) to show the Defendant completed an application for Emergency Assistance on February 4, 2009 at which time she reported that her only household income was the before mentioned child support for -----. She again signed the Combined Application Form and Rights and Responsibilities forms.
- 5) The Department subsequently obtained a written income verification (D-5) from [REDACTED] Inc., which verifies that -----, a listed member of the Defendant's household, worked for their company from August 26, 2008 through November 21, 2008 when he was laid off work. The verification shows that he worked thirty (30) hours per week and was paid weekly. He listed the same mailing address as the Defendant. The employer also included wage verification for the period. This income was never reported by the Defendant.
- 6) [REDACTED] Inc., also verified (D-5) earned income for -----. The verification shows that she worked for their company from October 21, 2008 through December 22, 2008. It lists the reason she left employment there as "hired on at [REDACTED]". They attached her wage verification for the period as well.
- 7) The Department verified (D-5) the Defendant's earnings from [REDACTED]. The verification shows that she began work for [REDACTED] on December 22, 2008 and she was still employed as of the date of the verification, April 1, 2009. The verification showed she works twenty five (25) hours per week and is paid twice a month. The verification indicates she is receiving health care, dental coverage and has life insurance and dependent life insurance.
- 8) The Department contends that the Claimant knowingly withheld information about her household's earned income when she completed her October 28, 2008 SNAP review and again when she completed her Emergency Assistance application on February 4, 2009. Both she and her husband were employed when she completed the October 2008 review, and she was still employed when she completed the February 4, 2009 application. The Department contends that the Defendant has signed numerous Rights and Responsibilities forms and fully understood her responsibility to report the earnings.

9) West Virginia Income Maintenance Manual §1.2 (E) states that it is the client's responsibility 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 § 20.2 (C) (2) states in pertinent part:

IPV's include making false or misleading statement, misrepresentations, concealing or withholding information, and committing any act that violates the Food Stamp Act of 1977, Food Stamp regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of Food Stamps.

The individual(s) who is found to have committed an IPV is ineligible to participate in the program for a specified time, depending on the number of offenses committed.

Once an IPV is established, a disqualification penalty is imposed on the AG member(s) who committed the IPV.

11) Common Chapters Manual 700, Appendix A, Section B, provides that 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 Act, the Food Stamp Program Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt or possession of food stamp benefits.

12) Common Chapters Manual 700, Appendix A, Section G, states that the State Hearing Officer shall base the determination of Intentional Program Violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, an Intentional Program Violation as defined in Section B of this Appendix.

13) The Defendant signed the Rights and Responsibilities form (D-4) on November 6, 2008 thereby acknowledging the following pertinent information:

4) 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.

48) I also understand that if I give incorrect or false information or if I fail to report changes that I am required to report, I may be required to repay any benefits I receive and I may also be prosecuted for fraud. I also understand that any person who obtains or attempts to obtain benefits from DHHR by means of a willfully false statement or misrepresentation or by impersonation or any other fraudulent device can be charged with fraud.

49) I certify that all statements on this form have been read by me or read to me and that I understand them. I certify that all the information I have given is true and correct and I accept these responsibilities.

- 14) West Virginia Income Maintenance Manual §9.1.A.2.h states:

**Intentional Program Violation (IPV)**

Persons who have been found guilty of an IPV are disqualified as follows:

- 1<sup>st</sup> Offense: 1 year
- 2<sup>nd</sup> Offense: 2 years
- 3<sup>rd</sup> Offense: Permanent

**VIII. CONCLUSIONS OF LAW:**

- 1) The policy and regulations that govern the Food Stamp program state that a Food Stamp 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 regulations state there must be clear and convincing evidence that demonstrates the Defendant intentionally committed an Intentional Program Violation.
- 3) The Defendant clearly was aware of her responsibility to report accurate information, and she clearly withheld information from the Department during her October 2008 SNAP case review and again in February 2009 when she applied for Emergency Assistance. The evidence shows that the Defendant was employed from October 21, 2008 through at least April 1, 2009, and her husband was employed from August 26, 2008 through November 21, 2008.
- 4) The Department was correct in its determination that the Defendant has committed an Intentional Program Violation by intentionally withholding her household earned income information from the Department.

**IX. DECISION:**

The Agency's proposal to apply a one (1) year Food Stamp disqualification penalty is **upheld**. The penalty will begin December 1, 2009.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 23<sup>rd</sup> Day of October, 2009**

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**Cheryl Henson  
State Hearing Officer**