



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

March 17, 2009

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

Attached is a copy of the findings of fact and conclusions of law on the Administrative Disqualification Hearing held March 12, 2009 to determine whether you committed an Intentional Program Violation (IPV) while receiving Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp, benefits.

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.

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 Section 20.2 and Code of Federal Regulations-7 CFR Section 273.16)

Evidence submitted at the hearing is insufficient to determine that you intentionally provided false and misleading information to the Department about your household composition.

It is the decision of the State Hearing Officer that you did not commit an Intentional Program Violation, therefore, no SNAP disqualification penalty will be applied.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Karen Crossland, Repayment Investigator, DHHR

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

----- ,

Defendants,

v.

Action Numbers: 08-BOR-2358 & 09-BOR-882

**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 March 17, 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.

All persons giving testimony were placed under oath. It should be noted that the hearing was conducted telephonically.

II. PROGRAM PURPOSE:

The Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, 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 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 an EBT card 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

Karen Crossland, State Repayment Investigator, DHHR

Presiding at the hearing was Pamela L. Hinzman, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether the Defendants committed an Intentional Program Violation and should be disqualified from participation in the SNAP for a period of one (1) year.

V. APPLICABLE POLICY:

7 CFR Section 273.16 USDA Code of Federal Regulations
Common Chapters Manual Chapter 740
West Virginia Income Maintenance Manual Sections 1.2E, 9.1g, 20.1 and 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Food Stamp Claim Determination Form and Computation Sheet
- D-2 Food Stamp application signed and dated May 20, 2008
- D-3 Case comments dated October 9, 2008
- D-4 West Virginia Income Maintenance Manual Section 1.2E
- D-5 West Virginia Income Maintenance Manual Section 9.1g
- D-6 West Virginia Income Maintenance Manual Sections 20.1 and 20.2

VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from State Repayment Investigator Karen Crossland. The investigator contends that the Defendants committed an Intentional Program Violation and recommends that they be disqualified from participation in the Supplemental Nutrition Assistance/Food Stamp Program for a period of one (1) year.
- 2) Information submitted by the Department reveals that the Defendants reapplied for Food Stamps on May 30, 2008. Page 3 of the application (D-2) indicates that the couple's son, ---, is a member of the household. The Defendants' signatures are listed on Page 15 of the application attesting that they provided accurate information to the case worker.
- 3) On October 9, 2008, the Defendants completed a Food Stamp redetermination and reported that ----- had been out of the home since October 2007 when he was placed in a juvenile facility.
- 4) The Repayment Investigator testified that the Defendants' alleged failure to report their accurate household composition resulted in a \$692 Food Stamp over issuance for the period of May 2008 through October 2008.

- 5) The Defendants maintained that they had informed the Department their son was out of the home and indicated that -----'s Medicaid card had stopped when he entered the [REDACTED] Center. ----- testified that she had contacted her Department worker immediately after ----- was taken to the juvenile facility because the child's probation officer had instructed her to report his absence. No evidence was provided by the Department to confirm or negate the Defendants' testimony regarding termination of their son's Medicaid benefits.
- 6) West Virginia Income Maintenance Manual Section 1.2E (D-4) states that the client's responsibility is to provide information about his/her circumstances so the worker is able to make a correct decision about his/her eligibility.
- 7) West Virginia Income Maintenance Manual Section 20.2 (D-6):

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.

- 8) West Virginia Income Maintenance Manual Section 20.2, C, 2 (D-6):

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: (Section 9.1, A, 2, g) 1st Offense: 1 year (Disqualification).

- 9) Common Chapters Manual 740.11, D 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.
- 10) Common Chapters Manual 740.22, M (The Decision) states that the State Hearing Officer shall base the determination of an Intentional Program Violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, an Intentional Program Violation.

VIII. CONCLUSIONS OF LAW:

- 1) Policy states that when an 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. If it is determined that an Intentional Program Violation has been committed, an appropriate disqualification penalty is imposed on the Assistance Group.
- 2) Evidence indicates that ----- was listed in the Defendants' household during a May 2008 Food Stamp application, however, the Defendants contended that they reported their son out of the home - and that the child's medical card stopped - when he had entered the [REDACTED] Center.
- 3) While ----- is listed as a household member on the May 2008 Food Stamp application, no case recordings from May 2008 were presented to provide further details of the worker's interview with the Defendants regarding household composition. The Defendants maintained that they had reported -----'s absence to the Department, therefore, there is no clear and convincing evidence to determine that the Defendants committed an Intentional Program Violation. As a result, the Department's proposal to impose an Intentional Program Violation cannot be affirmed.

IX. DECISION:

It is the decision of the State Hearing Officer to **reverse** the Department's proposal to impose an Intentional Program Violation and disqualify the Defendants from participation in the SNAP/Food Stamp Program for one (1) year.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 17th Day of March, 2009

**Pamela L. Hinzman
State Hearing Officer**