



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
2699 Park Avenue, Suite 100
Huntington, WV 25704**

**Joe Manchin III
Governor**

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

December 9, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on the SNAP Administrative Disqualification Hearing held August 6, 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 SNAP, formerly known as 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, Chapter 20.2; 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 income in order to receive SNAP benefits for which you were not 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. Your disqualification from SNAP will begin effective January 1, 2010.

Sincerely,

Todd Thornton
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Teresa Smith, Repayment Investigator

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

-----,

Defendant,

v.

Action Number: 08-BOR-2550

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

Movant.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from an Administrative Disqualification Hearing concluded on December 9, 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 August 6, 2009.

II. PROGRAM PURPOSE:

The purpose of SNAP, formerly known as the Food Stamp 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:

Teresa Smith, Repayment Investigator

Presiding at the Hearing was Todd Thornton, 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 SNAP.

V. APPLICABLE POLICY:

Code of Federal Regulations, 7 CFR §273.16
Common Chapters Manual, Chapter 700
West Virginia Income Maintenance Manual, Chapter 20.2; Chapter 9.1.A.2.h

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Combined Application and Review form, Quality Questionnaire, and Rights and Responsibilities form, dated November 28, 2005
- D-2 Combined Application and Review form, Request for Assistance form, and Rights and Responsibilities form, dated June 2, 2006
- D-3 Combined Application and Review form, Request for Assistance form, and Rights and Responsibilities form, dated December 5, 2006
- D-4 Data system screen prints (Case Comments)
- D-5 Food Stamp Claim Determination form; Data system screen prints (Food Stamp Allotment Determination)
- D-6 Notification of Intent to Disqualify; Waiver of Administrative Disqualification Hearing form
- D-7 West Virginia Income Maintenance Manual, Chapters 1.2, 1.4, 9.1, 10.3, 10.4, 20.1, 20.2; Common Chapters Manual, §740.11
- D-8 Application for Low Income Energy Assistance Program (LIEAP), dated February 28, 2006
- D-9 Application for West Virginia Clothing Allowance, dated July 24, 2006
- D-10 Marriage Certificate

VII. FINDINGS OF FACT:

- 1) The Department is alleging an act of Intentional Program Violation, or IPV, in the Defendant's case, due to self-employment income not reported during applications and reviews for SNAP, formerly known as the Food Stamp Program. Additionally, the Department is alleging that this income was not reported on applications for the Low Income Energy Assistance Program (LIEAP) or the West Virginia Clothing Allowance, which could have allowed the income to be considered for SNAP eligibility.
- 2) The hearing convened as scheduled at 9:45 a.m., and as of 10:00 a.m., the Defendant 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 Defendant in attendance.

- 3) The Code of Federal Regulations, 7 CFR §273.16(c), defines an IPV as:

(c) Definition of intentional Program violation. 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 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).

- 4) The Department presented a series of application documents (Exhibits D-1, D-2, D-3, D-8, and D-9) from application interviews on November 28, 2005, June 2, 2006, December 5, 2006, February 28, 2006, and July 24, 2006, respectively. The printed Combined Application and Review Forms omit any mention of self-employment income for the Defendant. The Quality Questionnaire (Exhibit D-1) and Request for Assistance forms (Exhibits D-2 and D-3) were completed by the Defendant, and omit any mention of self-employment income. All of the forms were signed by the Defendant. A marriage certificate (Exhibit D-10) was presented to show the Defendant's name on earlier documents.
- 5) Teresa Smith, Repayment Investigator for the Department, testified that the Department discovered the self-employment income of the Defendant through a data match. She presented case comments (Exhibit D-4) documenting the Department's unsuccessful attempt to verify this income through the Defendant after discovery.
- 6) The Department presented documentation (Exhibit D-5) showing the calculation of the SNAP claim resulting from the unreported income in the Defendant's case. A claim was determined from January 2006 through March 2006, and for December 2006, in the amount of \$488.00. The Department additionally confirmed that the Defendant has no prior IPV offenses.

- 7) The West Virginia Income Maintenance Manual, Chapter 9.1.A.2.h, states:

h. Intentional Program Violation (IPV)

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

- 1st offense: 1 year
- 2nd offense: 2 years
- 3rd offense: Permanent

VIII. CONCLUSIONS OF LAW:

- 1) The Department clearly established that the Defendant did not report self-employment income during numerous applications for Department programs. The Department showed that this resulted in a SNAP overissuance claim totaling \$488.00.
- 2) The Department also clearly established the intent of the Defendant to provide misleading information to receive SNAP benefits for which she would not have otherwise been entitled. The Defendant reported income from regular employment, but did not disclose income received from self-employment. The Department was correct in its determination that an IPV was committed by the Defendant.

IX. DECISION:

Intentionally withholding, concealing, or providing misleading 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 Defendant will be disqualified from participation in SNAP for a period of twelve (12) months to begin effective January 1, 2010.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this _____ Day of December, 2009.

Todd Thornton
State Hearing Officer