



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

Martha Yeager Walker
Secretary

July 29, 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 July 10, 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).

The information submitted at the hearing revealed that you intentionally provided false and misleading information about your household composition in order to receive Food Stamp (SNAP) benefits for which you were not legally entitled.

It is the decision of the State Hearing Officer that an Intentional Program Violation was committed by you. Because this is your third (3rd) IPV, you will be disqualified from participation in the SNAP Program permanently. This disqualification will begin effective September 1, 2009.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Sally Musick, SRI, DHHR

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

-----,

Defendant,

v.

Action Number: 09-BOR-516

**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 July 29, 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 originally scheduled to convene on June 26, 2009 but was rescheduled and convened on July 10, 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
Sally Musick, SRI, DHHR

Presiding at the Hearing was Thomas E. Arnett, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether or not the Defendant committed an Intentional Program Violation (IPV) and should be permanently disqualified from participation in the Food Stamp (SNAP) Program.

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, 2.2, 9.1, 10.4 & 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- DHS-1 Food Stamp (SNAP) Claim Determination and Computation Sheets (ES-FS-5) for July 2008 through October 2008
- DHS-2 PARIS printout (showing -----as a benefit recipient in [REDACTED])
- DHS-3 E-mail correspondence dated 11/19/08 from Melissa Edwards, Investigation Secretary, OH
- DHS-4 Combined Application and Review Form (CAF) signed by the Defendant on 6/26/08
- DHS-5 Case comments recorded in the Defendant's case for period 9/23/08 through 11/19/08
- DHS-6 Rights and Responsibilities (DFA-RR-1), signed by the Defendant on 6/26/08
- DHS-7 WV Income Maintenance Manual, Chapter 1.2 & 2.2
- DHS-8 WV Income Maintenance Manual, Chapter 9.1 & 20.2

VII. FINDINGS OF FACT:

- 1) The Department's request for an Administrative Disqualification Hearing was received by the Board of Review on January 13, 2009. The Department contends that the Defendant has committed a third (3rd) Intentional Program Violation and is recommending that the Defendant be disqualified from participation in the SNAP (Food Stamp) Program permanently.
- 2) The Department presented evidence to indicate the Defendant completed an application/ review for Food Stamp (now SNAP) benefits on December 4, 2007. At the time of the review, the Defendant reported that her daughter (Lateah) lived in the household. The Department's represented indicated that because the Defendant was a simplified reporter, she did not have to report any changes in her household composition (number of benefit members out of the home) until her next SNAP review.

- 3) The Department submitted Exhibit DHS-4 (Combined Application and Review Form) signed by the Defendant on June 26, 2008 wherein the Defendant reported that her daughter [REDACTED] was still residing in her home. The Defendant's daughter remained in the benefit group until she was removed effective November 2008 for failing to register with the Bureau of Employment Programs (BEP).
- 4) The Department's Repayment Investigator purported that in November 2008, the Defendant's daughter was listed in a "PARIS" report (DHS-2) as recipient of benefits in the State of [REDACTED]. The Department's Repayment Investigator requested and received e-mail confirmation (DHS-3, dated 11/19/08) from the State of [REDACTED] indicating that the Defendant's daughter has been a Medicaid benefit recipient at an [REDACTED] address since February 2008. In addition, the Defendant's daughter spoke with the Department's Repayment Investigator on November 19, 2008 and confirmed she has been residing in [REDACTED] since February 2008.
- 5) The Defendant reported that her daughter may have had an [REDACTED] address but she stayed with her a lot. The Defendant reported that the daughter came back and forth to her home as she was having difficulty with her pregnancy. The Defendant reported that she has Bi-Polar Disorder and that she often forgets a lot of things. She believes this is just a big mix-up and that her daughter was residing with her.
- 6) The Department's Repayment Investigator testified that the Defendant's daughter indicated she has lived in [REDACTED] since February 2008 and did not note any part-time living arrangements with her mother.
- 7) Department's Exhibits DHS-6 is the Rights and Responsibilities (DFA-RR-1) form completed and signed by the Defendant on the day of application/review (June 26, 2008). The Defendant marked "yes" to item #4 which states:

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 Food Stamp benefits as follows: First Offense – one year; Second Offense – two years; Third Offense- permanently. In addition, I will have to repay any benefits received for which I was not eligible.

By signing the DFA-RR-1, the Defendant certified that she read, understood, and accepted the rights and responsibilities and that all of the information she provided was true and correct.

- 8) Exhibit DHS-1 (Food Stamp Claim Determination) was submitted to show that by providing false and misleading information about her household composition at the June 26, 2008 application/review, the Defendant received \$487 in SNAP / Food Stamp benefits during the period July 2008 through October 2008 for which she was not legally entitled.

- 9) West Virginia Income Maintenance Manual ' 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 {emphasis added}.
- 10) West Virginia Income Maintenance Manual ' 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.
- 11) West Virginia Income Maintenance Manual ' 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.
- 12) West Virginia Income Maintenance Manual ' 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: (' 9.1, A, 2, h) 1st Offense: 1 year (Disqualification), 2nd Offense: 2 years (Disqualification), 3rd Offense: Permanent
- 13) 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 evidence reveals that the Defendant knowingly provided false and misleading information about her household composition in order to receive SNAP / Food Stamp benefits for which she was not legally entitled. This clearly establishes intent. While the Defendant purported that her daughter was residing with her on a part-time basis, there is no evidence to corroborate the Defendant's claim. Because this is the third (3rd) IPV filed against the Defendant, it is unclear why she would not have demonstrated a greater sense of awareness / caution when completing an eligibility determination.

- 2) 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.
- 3) There is clear and convincing evidence that the Defendant committed an Intentional Program Violation as defined in the SNAP / Food Stamp regulations.
- 4) In accordance with Food Stamp regulations, an Intentional Program Violation has been committed and a disqualification penalty must be applied. The disqualification for a third (3rd) offense is permanent disqualification from participation in the SNAP Program.
- 5) Only the Defendant is subject to this disqualification. The permanent disqualification will begin effective September 1, 2009.

IX. DECISION:

Intentionally making of false or misleading statement or misrepresenting facts to secure food Stamp / SNAP benefits constitutes a clear violation of the regulations. Based on evidence presented, I find the violation intentional.

The Department's proposal to apply a Food Stamp disqualification is **upheld**.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 29th Day of July, 2009.

**Thomas E. Arnett
State Hearing Officer**