



**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

Martha Yeager Walker
Secretary

July 6, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on the SNAP Administrative Disqualification Hearing held February 27, 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 and 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 August 1, 2009.

Sincerely,

Todd Thornton
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Marshall Daniels, Repayment Investigator

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

-----,

Defendant,

v.

Action Number: 09-BOR-525

**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 a fair hearing concluded on July 6, 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 fair hearing was convened on February 27, 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:

Marshall Daniels, 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:

7 CFR §273.16 Code of Federal Regulations
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 Benefit Recovery Referral Screen Print
- D-2 Combined Application and Review Form, dated June 8, 2007
- D-3 Case Comments from June 2007
- D-4 Combined Application and Review Form, dated July 26, 2007
- D-5 Combined Application and Review Form, dated January 14, 2008
- D-6 Case Comments from January 2008
- D-7 Application for Low Income Energy Assistance Program, dated December 11, 2007
- D-8 Application for West Virginia School Clothing Allowance, dated June 26, 2008
- D-9 Income Verification
- D-10 Food Stamp Claim Determination Form (ES-FS-5)
- D-11 Food Stamp Claim Calculation Sheets (ES-FS-5a)
- D-12 West Virginia Income Maintenance Manual, Chapter 20.2
- D-13 West Virginia Income Maintenance Manual, Chapter 9.1.A.2.h
- D-14 West Virginia Income Maintenance Manual, Chapter 20.2.A.2

VII. FINDINGS OF FACT:

- 1) The Department's Investigations and Fraud Management (IFM) Unit is alleging an act of Intentional Program Violation (IPV) in the Defendant's case, due to income withheld during multiple applications and reviews.
- 2) The hearing convened as scheduled at 9:00 a.m., and as of 9:15 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 Intentional Program Violation (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 the Combined Application and Review Forms for SNAP from June 8, 2007, July 26, 2007, and January 14, 2008 (Exhibits D-2, D-4, and D-5). Additionally, applications for the Low Income Energy Assistance Program (LIEAP) and West Virginia School Clothing Allowance were presented (Exhibits D-7 and D-8); although not applications for SNAP, household circumstances reported on these forms potentially affect the household's SNAP eligibility. All forms were signed by the Defendant. All forms list the Defendant's spouse in the household.
- 5) The Department obtained verification (Exhibit D-9) that the Defendant's spouse was employed from January 2005 through October 2008. The Defendant's spouse was reported to be residing with the Defendant beginning in June 2007. Income from employment was listed as a fixed \$300.00 per month for all months that the Defendant's spouse was in the Defendant's household. The West Virginia School Clothing Allowance application (Exhibit D-8) listed income from "odd jobs" from an unspecified source, totaling \$20.00 to \$40.00 per month. All other applications and reviews during this time period list no earnings for the Defendant's spouse.
- 6) The Department presented documentation (Exhibit D-10) showing the calculation of the SNAP claim resulting from the income not counted against the Defendant's case. A claim was determined from July 2007 through November 2008 in the amount of \$1148.00. 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 earned income received in the Defendant's household was withheld during multiple SNAP reviews and applications for related programs. The Department showed that this action resulted in a SNAP overissuance totaling \$1148.00.
- 2) The Department also clearly established the intent of the Defendant to conceal or withhold this information to receive SNAP benefits for which she would not have otherwise been entitled. The Defendant had multiple opportunities to report the regular, monthly earnings of her spouse, and failed to do so. The Department was correct in its determination that an IPV was committed by the Defendant.

IX. DECISION:

Intentionally withholding or concealing 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, formerly known as the Food Stamp Program, for a period of twelve (12) months to begin effective August 1, 2009.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ Day of July, 2009.

Todd Thornton
State Hearing Officer