



**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-526

**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 November 28, 2005
- D-3 Case Comments from November 2005
- D-4 Combined Application and Review Form, dated June 29, 2006
- D-5 Combined Application and Review Form, dated September 15, 2006
- D-6 Case Comments from September 2006
- D-7 Combined Application and Review Form, dated March 6, 2007
- D-8 Combined Application and Review Form, dated May 6, 2008
- D-9 Combined Application and Review Form, dated December 6, 2005
- D-10 Case Comments from December 2005
- D-11 West Virginia Works Orientation Screening Tool, dated December 5, 2005
- D-12 WV WORKS Personal Responsibility Contract (PRC), dated December 6, 2005
- D-13 Income Verification
- D-14 Food Stamp Claim Determination Form (ES-FS-5)
- D-15 Food Stamp Claim Calculation Sheets (ES-FS-5a)
- D-16 West Virginia Income Maintenance Manual, Chapter 20.2
- D-17 West Virginia Income Maintenance Manual, Chapter 9.1.A.2.h
- D-18 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 reviews of SNAP eligibility.
- 2) The hearing convened as scheduled at 9:30 a.m., and as of 9:45 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 from November 28, 2005, June 29, 2006, September 15, 2006, March 6, 2007, May 6, 2008, and December 6, 2005 (Exhibits D-2, D-4, D-5, D-7, D-8, and D-9). All forms were signed by the Defendant.

Exhibits D-4, D-7, and D-8 listed no earned income in the household.

Exhibit D-2 listed earned income from employment and self-employment; the Department contended that the source and the monthly income amount differed from the information later discovered.

Exhibit D-5 listed income from employment and self-employment; the Department contended that the income from employment was underreported and – according to case comments presented by the Department (Exhibit D-6) – the employment was in lieu of rent to his landlord.

Exhibit D-9 listed income from self-employment in the amount of \$40.00 per month. Case comments presented by the Department (Exhibit D-10) showed that this reported income was from a different source later discovered by the Department.

The Department additionally presented a West Virginia Works Orientation Screening Tool (Exhibit D-11), signed by the Defendant. The form asked for a response to the question “Do you have income of any kind?” The Defendant failed to provide a response to this question.

- 5) The Department obtained verification (Exhibit D-13) that the Defendant was employed from at least February 2005 through October 2008. The verification showed monthly income for the Defendant in the amount of \$200.00 from February 2005 through December 2006, and \$300.00 from January 2007 through October 2008.
- 6) The Department presented documentation (Exhibit D-14) showing the calculation of the SNAP claim resulting from the income not counted against the Defendant’s case. A claim was determined from December 2005 through August 2006 in the amount of

\$335.00. The Department presented calculation sheets (Exhibit D-15) explaining that later months – from September 2006 through April 2007 – the uncounted income did not result in a SNAP overissuance. 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 withheld, underreported, or provided misleading information about his earnings during multiple SNAP eligibility reviews. The Department showed that this resulted in a SNAP overissuance totaling \$335.00.
- 2) The Department also clearly established the intent of the Defendant to conceal or withhold this information to receive SNAP benefits for which he would not have otherwise been entitled. The Department showed seven separate reviews during which the Defendant reported no earned income from any source, underreported his income, or underreported his income and listed it as in lieu of rent, instead of regular, monthly income paid directly to him by his landlord. 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 Food Stamp disqualification is **upheld**. The Defendant will be disqualified from participation in the Food Stamp program, or SNAP, 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