



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Joe Manchin, III
Governor

July 29, 2009

Martha Yeager Walker
Secretary

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 22, 2009 for the purpose of establishing whether or not an Intentional Program Violation occurred requiring a repayment of Supplemental Nutrition Assistance Program (SNAP) benefits.

In arriving at a decision, the State Hearings 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 SNAP program is based on current policy and regulations. These regulations provide that an 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 your hearing revealed that you intentionally misrepresented your household composition at your SNAP application by reporting your children as residing in your home.

It is the decision of the State Hearings Officer to **Uphold** the proposal of the Department to impose an Intentional Program Violation and repayment of SNAP benefits.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

cc: Board of Review
Teresa Smith, Criminal Investigator

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

----- and -----,

Defendant and Co-Defendant,

V.

Action Number: 09-BOR-712

09-BOR-713

**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 June 22, 2009 for ----- and ----- . 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 June 22, 2009.

II. PROGRAM PURPOSE:

The Program entitled Supplement Nutrition Assistance Program (SNAP) is administered by the West Virginia Department of Health & Human Resources.

The purpose of 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 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

-----, Co-Defendant

Teresa Smith, Criminal Investigator

Presiding at the Hearing was Kristi Logan , State Hearing Officer and a member of the Board of Review.

This hearing was held by videoconference.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether or not an Intentional Program Violation occurred requiring a repayment of SNAP benefits.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 1.2 E, 9.1 A, and 20.2
Code of Federal Regulations- 7 CFR § 273.16

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Combined Application Form and Rights and Responsibilities Form dated September 5, 2008
- D-2 Case Comments (CMCC) from Rapids Computer System
- D-3 Correspondence between ----- and Teresa Smith dated February 17, 2009
- D-4 SNAP Claim Determination Form
- D-5a Notification of Intent to Disqualify to ----- dated December 17, 2008
- D-5b Notification of Intent to Disqualify to ----- dated December 17, 2008
- D-6 WV Income Maintenance Manual § 1.2. 1.4, 9.1, 20.1, and 20.2

Defendants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from Department of Health and Human Resources' Criminal Investigator, Teresa Smith, on February 18, 2009. The Department contends that the Defendants have committed an Intentional Program Violation (IPV) and is recommending that the Defendants be disqualified from participation in SNAP for a period of one (1) year and a repayment of SNAP benefits received for which they was not eligible for.
- 2) The Defendants were notified by Notification of Intent to Disqualify letters dated December 17, 2008 that the Department had reason to believe they intentionally violated the SNAP program by failing to report accurate household composition at application. The result was an overpayment of \$674 in SNAP benefits.
- 3) Defendants applied for SNAP benefits on September 5, 2008. They reported to the caseworker that their household consisted of themselves and their three (3) children. SNAP benefits were approved for September 2008 and ongoing (D-2).
- 4) The caseworker was informed by Child Protective Services on September 23, 2008 that the Defendants' children were removed from the home March 27, 2008 and placed in ----- home where they have remained (D-3). The caseworker conducted a home visit September 24, 2008 and verified the children were residing with -----, the children's grandmother (D-2).

- 5) The Department contends Defendants intentionally violated the SNAP program by reporting false information at the time of application. Defendants were not eligible to receive SNAP benefits for their children while they resided in another household.
- 6) Defendant testified that the children were living with Co-Defendant in March 2008 and when they were removed from her custody and placed with their grandmother. He received full custody of the children in June 2008 when he and Co-Defendant were divorced. The children remained with ----- until the first week of September 2008. The children lived with Defendant and Co-Defendant until the last week of September 2008 when they no longer had heat in their home. They returned the children to ----- at that time.

Defendant stated he called their caseworker the next day to report that the children left the home but never received any response.

- 7) WV Income Maintenance Manual § 1.2 E states:

The client's responsibility is to provide information about his circumstances so the Worker is able to make a correct decision about his eligibility. When the client is not able to provide the required verification, the Worker must assist him. The client must be instructed that his failure to fulfill his obligation may result in one or more of the following actions:

- Denial of application
- Closure of the active Assistance Group (AG)
- Removal of the individual from the AG
- Repayment of benefits
- Reduction in benefits

- 8) WV Income Maintenance Manual § 9.1 A(1) states:

The Assistance Group: Who Must be Included

The SNAP AG must include all eligible individuals who both live together and purchase and prepare their meals together.

When an individual, who is included in an AG, is absent or is expected to be absent from the home for a full calendar month, he is no longer eligible to be included in the AG, and must be removed after proper notice.

- 9) WV Income Maintenance Manual § 20.2 states:

When an AG has been issued more Food Stamps than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation (UPV) or an Intentional Program Violation (IPV) claim. The claim is the difference between the coupon entitlement of the AG and the coupon allotment the AG was entitled to receive.

- 10) Code of Federal Regulations- 7 CFR § 273.16 states:

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 coupons.

VIII. CONCLUSIONS OF LAW:

- 1) In order for an Intentional Program Violation to be established, it must be shown by clear and convincing evidence that the Defendants intentionally made a false or misleading statement or withheld or concealed facts from the Department.
- 2) According to the evidence presented by the Department, the Defendant's children were not residing with the Defendants at the time of their September 2008 SNAP application. Defendants failed to report accurate information and intentionally misrepresented their household composition. As a result, Defendants was issued SNAP benefits for which they were not entitled to receive.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to impose an Intentional Program Violation against Defendant and Co-Defendant and a repayment of SNAP benefits.

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.

Kristi Logan
State Hearing Officer