



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

Martha Yeager Walker
Secretary

July 15, 2009

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 determining 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 SNAP 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 which was submitted at your hearing revealed that you intentionally withheld information regarding your daughter's Social Security Survivor's Benefits from the Department.

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**

-----,

Defendant,

v.

Action Number: 09-BOR-714

**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 ----- . 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 Supplemental 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:

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, 10.3 RRR, 10.4, 9.1 A and 20.2
Code of Federal Regulations- 7 CFR § 273.16

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1a Combined Application Form, Rights and Responsibilities Form and Screening Form dated March 4, 2008
- D-1b Combined Application Form, Rights and Responsibilities Form and Screening Form dated August 18, 2008
- D-2 School Clothing Allowance Application dated July 22, 2008
- D-3 Data Exchange Screen with Social Security Administration
- D-4 SNAP Claim Determination Form
- D-5 Notification of Intent to Disqualify dated December 19, 2008
- D-6 WV Income Maintenance Manual § 1.2, 1.4, 9.1, 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 May 18, 2009. The Department contends that the Defendant has committed an Intentional Program Violation (IPV) and is recommending that the Defendant be disqualified from participation in SNAP for a period of one (1) year and a repayment of SNAP benefits received for which she was not eligible for.
- 2) The Defendant was notified by a Notification of Intent to Disqualify letter dated December 19, 2008 that the Department had reason to believe she intentionally violated the SNAP program by failing to report accurate household income at application and review. The result was an overpayment of \$1718 in SNAP benefits (D-5).
- 3) Defendant was notified of the Administrative Disqualification Hearing by certified letter dated May 18, 2009 and she signed for the letter May 21, 2009. Defendant failed to appear at the hearing or provide good cause for her failure to do so.

- 4) Defendant applied for SNAP benefits on March 4, 2008. She reported her household's only income as contributions from her father (D-1a). Defendant's SNAP benefits were reviewed on August 18, 2008. She reported no income for her household (D-1b). The Department discovered Defendant had been receiving Social Security Survivor's Benefits for her daughter Morgan of \$961 monthly since January 2008 (D-3).

The Department contends that Defendant intentionally withheld information at application and subsequent review regarding her household's income and received SNAP benefits from March 2008 - September 2008 for which she was not eligible.

- 5) 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

- 6) WV Income Maintenance Manual § 10.3 RRR states:

The following chart is a list of income sources:

RRR. RSDI (Retirement, Survivor, Disability Insurance)

Unearned income for SNAP

- 7) WV Income Maintenance Manual § 10.4 A states:

Eligibility is determined and benefits are issued on a monthly basis. Therefore, it is necessary to determine a monthly amount of income to count for the eligibility period. The following information applies to earned and unearned income.

For all cases, the Worker must determine the amount of income that can be reasonably anticipated for the AG. For all cases, income is projected; past income is used only when it reflects the income the client reasonably expects to receive.

- 8) WV Income Maintenance Manual § 9.1 A(2)h states:

Persons who have been found guilty of an Intentional Program Violation (IPV) are disqualified [from SNAP] as follows:

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

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 [SNAP] 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 Defendant intentionally made a false or misleading statement or withheld or concealed facts from the Department.
- 2) Policy dictates that it is the responsibility of SNAP recipients to report accurate household information at application so that a correct determination of benefits can be made. According to the documentation provided by the Department, Defendant withheld her daughter's income of Social Security Survivor's Benefits.\
- 3) Defendant failed to report accurate information and intentionally misrepresented her household income. As a result, Defendant was issued SNAP benefits for which she was not entitled to receive. Defendant will be required repay the SNAP overissuance of \$1718

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposition of the Department to impose an Intentional Program Violation and repayment of SNAP benefits of \$1718 against Defendant.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 15th day of July 2009.

Kristi Logan
State Hearing Officer