



**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**

August 28, 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 16, 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 SNAP (formerly Food Stamp) 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 and a disqualification penalty of one (1) year will be applied. This disqualification will begin effective October 1, 2009.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Teresa Smith, SRI, DHHR

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

-----,

Defendant,

v.

Action Number: 09-BOR-717

**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 August 28, 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 convened on July 16, 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:

Teresa Smith, State Repayment Investigator, WVDHHR

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 disqualified for a specified period from participation in the Supplemental Nutrition Assistance Program (SNAP).

V. APPLICABLE POLICY:

7 CFR §273.16 USDA Code of Federal Regulations
Common Chapters Manual Chapter 700, Appendix A
West Virginia Income Maintenance Manual, Chapter 1.2, 1.4, 9.1, 10.4 & 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

DHS-1 Combine Application and Review form, dated 7/18/08
DHS-2 Case Comments for period 7/30/08 & 8/7/08
DHS-3 Client Contact Report on 8/7/08
DHS-4 Food Stamp Claim Determination Sheet
DHS-5 Notification of Intent to Disqualify
DHS-6 WV Income Maintenance Manual, Chapter 1.2, 1.4, 9.1, 20.1, 20.2 & WVDHHR
Common Chapters Manual, Section 740

VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from the Department on February 18, 2009. The Department contends that the Defendant has committed an Intentional Program Violation and is recommending that the Defendant be disqualified from participation in the SNAP (Food Stamp) Program for a period of one (1) year.
- 2) Notification of the July 16, 2009 hearing was mailed to the Defendant on May 19, 2009 via Certified, Restricted Delivery Mail. The Claimant's signature appears on the return receipt provided by the U.S. Post Office, confirming she received notice of the schedule hearing.
- 3) The hearing convened as scheduled at 10:30 a.m., and as of 10:30 a.m., the Defendant failed to appear. As set forth in the Code of Federal Regulations found at §7 CFR 273.16 (e) (4), and State Policy (West Virginia Department of Health and Human Resources Common Chapters Manual, Chapter 740.20), the hearing was conducted without the Defendant in attendance.
- 4) The Department presented Exhibit DHS-1 to show that the Defendant completed an application for SNAP (Food Stamp) benefits on July 18, 2008. The Defendant reported that her household consisted of three (3) members – the Defendant and her two sons. The Defendant's signature appears on the responsibilities section of the application (DHS-1, page 11) indicating that she has provided true and correct information and that she accepts the responsibilities included therein.
- 5) On August 7, 2008, the Department's Office of Income Maintenance was contacted by a Child Protective Services Worker (CPSW) and advised the Defendant does not have physical custody of her children. According to the information provided by the CPSW, the Defendant had not had custody of her two sons since Memorial Day weekend (Exhibit DHS-2). Department's Exhibit DHS-3 (Client Contact Report) is documentation from the CPSW confirming her custodial findings during a home visit on August 7, 2008.

- 6) Department's Exhibit DHS-1 includes the DFA-RR-1 - the Rights and Responsibilities form completed and signed by the Defendant on the day of application (July 18, 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 received 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.

- 7) Exhibit DHS-4 (Food Stamp Claim Determination) was submitted to show that by providing false and misleading information about her household composition, the Defendant received \$378 in SNAP benefits during the period July 18, 2008 through August 31, 2008 for which she was not legally entitled.
- 8) West Virginia Income Maintenance Manual, Chapter 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}.
- 9) West Virginia Income Maintenance Manual, Chapter 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.
- 10) West Virginia Income Maintenance Manual, Chapter 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.
- 11) West Virginia Income Maintenance Manual, Chapter 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: (Chapter 9.1, A, 2, h) 1st Offense: 1 year (Disqualification), 2nd Offense: 2 years (Disqualification), 3rd Offense: Permanent
- 12) 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.
- 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 policy and regulations.
- 4) In accordance with Food Stamp policy and regulations, an Intentional Program Violation has been committed and a disqualification penalty must be applied. The disqualification for a first (1st) offense is two (2) years.
- 5) Only the Defendant is subject to this disqualification. The one (1) year disqualification will begin effective October 1, 2009.

IX. DECISION:

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

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

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 28th Day of August, 2009.

**Thomas E. Arnett
State Hearing Officer**