



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General**

**Joe Manchin III
Governor**

**Board of Review
P.O. Box 1736
Romney, WV 26757**

**Patsy A. Hardy, FACHE, MSN, MBA
Cabinet Secretary**

June 1, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your Supplemental Nutrition Assistance Program (SNAP) Administrative Disqualification hearing held May 26, 2010. The purpose of this hearing was to determine whether or not you intentionally committed an Intentional Program Violation.

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 Supplemental Nutrition Assistance Program is based on current policy and regulations. These regulations provide that 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. 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 did intentionally mislead the Department by failing to report your unemployment compensation.

It is the decision of the State Hearing Officer to Uphold the proposal of the Department to implement a 12-month Intentional Program Violation against you.

Sincerely,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review
Lori Woodward, RI

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

-----,

Defendant,

v.

Action Number: 10-BOR-1098

**West Virginia Department of
Health and Human Resources,**

Movant.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on June 1, 2010 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 May 26, 2010.

II. PROGRAM PURPOSE:

The purpose of the Supplemental Nutrition Assistance Program (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 benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

III. PARTICIPANTS:

Lori Woodward, Repayment Investigator (RI)

Presiding at the Hearing was Eric L. Phillips, State Hearing Officer and a member of the Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Defendant committed an Intentional Program Violation and should be disqualified for one year from participation in the Supplemental Nutrition Assistance Program or SNAP.

V. APPLICABLE POLICY:

Code of Federal Regulations, 7 CFR §273.16
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 Combined Application and Review Form with associated Rights and Responsibilities dated April 11, 2008
- D-2 Computer printout of RAPIDS (benefit issuance system) case comments dated April 11, 2008
- D-3 Notice of Decision dated April 14, 2008
- D-4 Combined Application and Review Form with associated Rights and Responsibilities dated June 9, 2008
- D-5 Application for West Virginia School Clothing Allowance dated June 25, 2008
- D-6 Computer printout of unemployment compensation benefit payment history
- D-7 Food Stamp Claim Determination
- D-8 Notification of Intent to Disqualify dated March 10, 2010
- D-9 West Virginia Income Maintenance Manual Chapter 1.2, 1.4, 2.2, 9.1
- D-10 West Virginia Income Maintenance Manual Chapter 20.2 and Common Chapters 740-740.11

VII. FINDINGS OF FACT:

- 1) The Board of Review received a request for an Administrative Disqualification Hearing on April 2, 2010. The Department contends that the Defendant committed an Intentional Program Violation (IPV) and recommends that the Defendant be disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP) for a twelve (12) month period.
- 2) The hearing was originally scheduled for May 12, 2010 and rescheduled based on the Department's request. The hearing was rescheduled to May 26, 2010. Notification was delivered to the Defendant via first class mail on April 27, 2010 and the notice was not returned as undeliverable to the Board of Review by the United States Postal Service.
- 3) The hearing convened as scheduled at 9:00 A.M., on the requested date. As of 9:16 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) On April 11, 2008, the Defendant completed her recertification for May 2008 SNAP benefits. Exhibit D-1, Combined Application and Review Form documents that the Defendant reported her sources of income consisted of self employment earnings of Two Hundred and Fifteen

Dollars (\$215.00) per month from babysitting services and her daughter's monthly Supplemental Security Income (SSI) assistance of Three Hundred and Fifty One Dollars (\$351.00). Monthly income reported for the household totaled Five Hundred and Sixty Six Dollars (\$566.00).

- 5) On April 14, 2008, the Defendant was issued Exhibit D-3, Notice of Decision. This exhibit documents in pertinent part:

Action-Your Food Stamps will increase from \$720.00 to \$772.00 effective 5/1/08

Reason-Reduction in recoupment

You must contact this office and report if your total household income increases to more than \$ 2992.00 per month.

- 6) On June 9, 2008, the Defendant applied for emergency assistance with the Department. Exhibit D-4, Combined Application and Review Form documents that Defendant did not report any changes to her household circumstances and the total monthly income remained at Five Hundred and Sixty Six Dollars (\$566.00). Additionally, the Defendant completed and application for the West Virginia School Clothing Allowance (WVSCA) on June 25, 2008. Exhibit D-5, Application for West Virginia School Clothing Allowance, establishes that the Defendant reported a total household income of Five Hundred and Sixty Six Dollars (\$566.00).
- 7) The Defendant completed and signed a Rights and Responsibilities Form at the April 14, 2008 recertification for SNAP benefits and the June 9, 2008 application for emergency assistance. Exhibit D-1 and Exhibit D-4, documents that the Defendant acknowledged all rights and responsibilities associated with the receipt of Departmental benefits and attested that all information that was reported to the Department at her application and recertification for benefits was true and correct.
- 8) Lori Woodward, Repayment Investigator and Department representative, testified that the Defendant completed an additional recertification for SNAP benefits on October 10, 2008. Ms. Woodward stated that the Economic Service Worker conducting the recertification completed a data exchange search with the Bureau for Employment Programs and discovered that the Defendant had been receiving unemployment compensation from February 2008 through July 2008. Exhibit D-6, Computer printout of unemployment compensation benefit payment history indicates that the Defendant received a weekly benefit amount of unemployment compensation in the amount of Two Hundred and Sixty Nine Dollars (\$269.00) beginning February 28, 2008 and continued to receive such benefit until July 20, 2008.
- 9) Ms. Woodward submitted Exhibit D-7, Food Stamp Claim Determination worksheet to establish that the Defendant having provided false information concerning the total income available to the household at her recertification for SNAP benefits resulted in an over payment of SNAP benefits in the amount of Eleven Hundred and Twenty Four Dollars (\$1124.00) for the period of May 2008 through July 2008.

- 10) West Virginia Income Maintenance Manual Chapter 1.2 indicates:

The client's responsibility is to provide information about his circumstances so the Worker is able to make a correct decision about his eligibility.

- 11) West Virginia Income Maintenance Manual Chapter 2.2 indicates:

All SNAP AG's must report changes related to eligibility and benefit amount at application and redetermination.

Changes Acted On For SNAP AG's

a. Information Verified Upon Receipt

Action must be taken for all AG's when information is received from a source that is considered verified upon receipt. Verified upon receipt sources are not subject to independent verification and the provider is the primary source of the information. The only sources considered verified upon receipt are:

- BENDEX and SDX from SSA
- Unemployment Compensation from WVBE data exchange

- 12) West Virginia Income Maintenance Manual, Chapter 9.1 indicates:

Persons who have been found guilty of an IPV are disqualified as Follows:

- 1st Offense: 1 Year
- 2nd Offense: 2 Years
- 3rd Offense: Permanent

- 13) 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) Based on evidence presented during the Administration Disqualification Hearing, the Defendant knowingly withheld information concerning her receipt of unemployment compensation income in order to receive Supplemental Nutrition Assistance Program (SNAP) benefits for which she was not legally entitled. Specifically, at the recertification for SNAP benefits in April 2008, the Defendant misled the Department by intentionally withholding information concerning the receipt of unemployment compensation when the Defendant was aware of such income since February 2008. Additionally, the Defendant withheld income information at subsequent applications for Departmental benefits until the receipt of such income was discovered in October 2008.
- 2) The policy and regulations that govern SNAP benefits dictate 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 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 one (1) year.
- 5) The Defendant is the only assistance group member subject to said disqualification penalty. The one year disqualification penalty will begin July 1, 2010 and will run concurrently for the next 12 months.

IX. DECISION:

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

The Department's proposal to apply a twelve (12) month disqualification and subsequent repayment of benefits is upheld.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ day of June 2010

Eric L. Phillips
State Hearing Officer