



**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 3, 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 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 not intentionally mislead the Department by failing to report your husband's unemployment compensation income.

It is the decision of the State Hearing Officer to Reverse 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-1099

**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 for ----- convened on May 26, 2010. 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.

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:

-----, Defendant
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
January 4, 2010
- D-2 Computer printout of case comments from Department's benefit issuance system dated
January 5, 2010
- D-3 Computer printout of case comments from Department's benefit issuance system dated
January 14, 2010
- D-3a Computer printout of Benefit Payment History for unemployment compensation
- D-4 Notice of Decision dated January 15, 2010
- D-5 Food Stamp Claim Determination
- D-6 Notification of Intent to Disqualify dated March 12, 2010
- D-7 Waiver of Administrative Disqualification Hearing
- D-8 Hearing Request dated March 20, 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

Defendant's Exhibits:

DD-1 Workforce West Virginia registration

DD-2 Information reported to the Department from the Defendant

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. The Defendant completed Exhibit D-7, Waiver of Administrative Disqualification Hearing requesting a hearing to examine the facts associated with the Department's intention to seek an IPV.
- 2) On January 4, 2010, the Defendant completed Exhibit D-1, Combined Application and Review Form for SNAP benefits. Exhibit D-2, Computer printout of case comments from the Department's benefit issuance system, documents that the monetary disability benefits received by the Defendant's husband from his employer expired in December 2009. The Defendant reported at the SNAP application that the only income available to the household was her

employment earnings. Additional information was required from the Defendant in order to complete her application for benefits. Exhibit D-1 documents the following:

This is to inform you that the information listed below is needed to establish your eligibility and/or deductions for child medical/SNAP benefits.

Information Needed:

- 1) Need both childrens [sic] birth certificates brought to office for copy
- 2) Need ---(Defendant's Husband) to bring in verification that he is registered with Workforce.
- 3) Need ----- to bring in her pay from 12/31/10
- 4) Need your daycare receipt

This request establishes a deadline date of February 4, 2010 and informed the Defendant that if the requested information was not received by the established date, her application for benefits would be denied.

- 2) On January 14, 2010, the Defendant made an inquiry on the status of her SNAP application. Exhibit D-3, Computer printout of case comments from the Department's benefit issuance system documents in pertinent part:

Recd [sic] phone message from ----- regarding SNAP and QC; located case and phoned client; ----- stated she brought in information; located return of information as of 1/7/10 which is BEP REG for [REDACTED] proof of 12/31 pay gross with copy of pay.

Entered information today and confirmed SNAP and QC

- 3) On January 15, 2010, the Department issued Exhibit D-4, Notice of Decision informing the Defendant of the approval of her SNAP application. Exhibit D-4 documents in pertinent part:

Your application for SNAP dated 1/4/10 has been approved.

Your benefit for 1/4/10 through 1/31/10 will be \$543.00.

You must contact this office and report if your total household income increases to more than \$2389.00 per month. Gross income is that amount of all unearned income received in a month, plus the amount of earned income before any taxes or other withholdings are taken out. This includes the income of all individuals who live in your home, whether or not they are included in your SNAP benefit case.

- 4) Lori Woodward, Repayment Investigator and Department representative, testified that on March 4, 2010 the Defendant along with her husband, made an application for WV WORKS cash assistance with the Department. While processing the application, the worker discovered that the Defendant's husband was currently receiving unemployment compensation in the amount of \$218.00 a week and the receipt of such income began January 11, 2010 (Exhibit D-3a). Ms. Woodward contends that the Defendant had the responsibility to report such income

when she contacted the Department on January 14, 2010, as she was still considered an applicant for SNAP benefits. Additionally, Ms. Woodward opined that the Defendant was knowledgeable of her husband's application for unemployment compensation at her January 4, 2010 application for SNAP benefits and was required to report such information at her initial application.

- 5) Ms. Woodward submitted Exhibit D-5, Food Stamp Claim Determination, to establish that the Defendant, having withheld information concerning her husband's unemployment compensation at her application for SNAP benefits, caused an overpayment of \$769.00 for the period of January 2010 through March 2010.
- 6) The Defendant testified that her husband's employer-issued disability benefits expired in December 2010. The Defendant testified that her husband applied for unemployment compensation days before her SNAP application and was awaiting approval of such benefit at the time of her SNAP application. The Defendant stated that she did not have verification of the application for unemployment compensation when she applied for SNAP benefits. The Defendant indicated that she was aware of the possibility of a weekly benefit of \$193.00 in unemployment compensation when she researched the Bureau for Employment Programs (BEP) website. The Defendant testified that she informed the Economic Service Worker (ESW) conducting the SNAP application of her husband's unemployment compensation application and the possibility of a weekly benefit amount. In contrast to her initial testimony, the Defendant stated that her husband went to the BEP on January 12, 2010 and his application was back-dated one day to January 11, 2010 to establish benefits for the prior week. The Defendant testified that she was unfamiliar with the BEP process regarding when she could expect to receive any income from unemployment compensation. The Defendant indicated that the unemployment compensation application in question was the first application for such benefit made by herself or her husband. The Defendant purported that the initial unemployment compensation dated January 11, 2010 was not received by her household until January 17, 2010 as this was the date that funds were made available through the BEP issued debit card.

The Defendant stated that she was required to provide verification of her husband's registration with the BEP (Exhibit D-1) and complied with such requirement on January 7, 2010 (Exhibit DD-1). The Defendant opined that her compliance in providing such verification of BEP registration demonstrates that she was not intentionally misleading the Department in regards to the receipt of unemployment compensation or working with the BEP.

Additionally, the Defendant testified that she returned to the Department in February to report changes and apply for WVWORKS cash assistance. The Defendant supplied copies of unemployment compensation information for February, day care information and utility receipts (Exhibit DD-2). The Defendant testified that she was forthright with the Department when she supplied details of the receipt of unemployment compensation in February and was not withholding information from the Department.

- 7) 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.

- 8) 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

- 9) 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

- 10) 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 policy and regulations that govern SNAP benefits dictate that an intentional 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 SNAP benefits.
- 2) Evidence presented during the Administrative Disqualification Hearing showed that the Defendant **did not** provide false or misleading statements regarding household income to the Department in order to receive Supplemental Nutrition Assistance Program benefits. The Unemployment Compensation Benefit Payment History (Exhibit D-3a) indicates that an application had been established January 4, 2010 with unemployment compensation funds being released on January 11, 2010. Testimony indicated that the Defendant was a novice to the BEP procedures and that she became aware of the availability of funds on January 17, 2010. Testimony regarding the receipt of such income appeared credible as the Defendant was unaware of an exact date in which the BEP would make the unemployment compensation income available to the household. In consideration of processing timeframes from the date of release of income to the date of availability of such income to the recipient, it is unclear whether or not the Defendant was aware that unemployment compensations funds were available to her when she contacted the Department on January 11, 2010. Additionally, testimony indicated that the Defendant provided verification of unemployment compensation in February 2010 and was not trying to conceal the receipt of such income.
- 3) There is no clear and convincing evidence that the Defendant committed an Intentional Program Violation (IPV) as defined in the SNAP policy and regulations, therefore an IPV has not been committed and a disqualification penalty is not warranted.

IX. DECISION:

Intentionally making a false or misleading statement or misrepresenting facts to secure SNAP benefits constitutes a clear violation of the regulations governing the receipt of SNAP. Based on the evidence presented, I find that the violation was not intentional.

The Department's proposal to apply a twelve (12) month disqualification penalty is **reversed**.

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**