



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241**

**Joe Manchin III
Governor**

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

July 30, 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 July 28, 2010 to determine whether you committed an Intentional Program Violation (IPV).

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.

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 Section 20.2 and Code of Federal Regulations-7 CFR Section 273.16)

Information submitted at the hearing reveals that you withheld information about your child support income, resulting in an incorrect determination of your SNAP (formerly Food Stamp) allotment.

It is the decision of the State Hearing Officer that you committed an Intentional Program Violation and a disqualification penalty will be applied.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Tammy Hollandsworth, Repayment Investigator, DHHR

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

-----,

Defendant,

v.

Action Number: 10-BOR-1256

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

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from an Administrative Disqualification Hearing for ----- . This hearing was held on July 28, 2010 in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. It should be noted that the hearing was originally scheduled for June 10, 2010, but was rescheduled by the Hearing Officer due to a notification error.

All persons giving testimony were placed under oath.

II. PROGRAM PURPOSE:

The purpose of the Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp 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 an EBT card to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

III. PARTICIPANTS:

Tammy Hollandsworth, State Repayment Investigator, DHHR

Presiding at the hearing was Pamela L. Hinzman, State Hearing Officer and a member of the State Board of Review.

It should be noted that the Defendant did not appear for the hearing.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether the Defendant committed an Intentional Program Violation and should be disqualified from participation in the SNAP (formerly Food Stamp Program) for a period of one (1) year.

V. APPLICABLE POLICY:

7 CFR Section 273.16 USDA Code of Federal Regulations
WVDHHR Common Chapters Manual Chapter 700, Appendix A
West Virginia Income Maintenance Manual Sections 1.2.E, 9.1, 20.1, 20.2 and 20.6

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 IG-BR-31 Hearing Summary
- D-2 Food Stamp Claim Determination Form (December 2009-February 2010)
- D-3 Food Stamp Calculation Sheets
- D-4 Food Stamp disbursement information
- D-5 Food Stamp Allotment Determination
- D-6 Case member history
- D-7 Case comments dated November 23, 2009, December 8, 2009 and January 25, 2010
- D-8 Income verification from [REDACTED] Hospital
- D-9 Copy of separation agreement and verification of child support income
- D-10 Combined Application and Review Form and Rights and Responsibilities signed by Defendant on November 23, 2009
- D-11 Notification of Intent to Disqualify
- D-12 Waiver of Administrative Disqualification Hearing
- D-13 Case comments dated April 15, 2010 and April 29, 2010
- D-14 West Virginia Income Maintenance Manual Section 1.2E
- D-15 West Virginia Income Maintenance Manual Sections 20.1 and 20.2
- D-16 West Virginia Income Maintenance Manual Section 20.6
- D-17 7 CFR Section 273.16 USDA Code of Federal Regulations

VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from State Repayment Investigator Tammy Hollandsworth on May 5, 2010. The Repayment Investigator contends that the Defendant committed an Intentional Program Violation and recommends that the Defendant be disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, for a period of one (1) year.

- 2) Information submitted by the Department indicates that the Defendant completed a SNAP redetermination on November 23, 2009, signing a Combined Application and Review Form with associated Rights and Responsibilities (D-10). The Defendant's signature is located on Page 11 of the review form, attesting that she had provided complete and truthful information to the Department. At that time, the Defendant reported the only household income as her earnings from [REDACTED] Hospital. The Defendant's earned income is verified in Exhibit D-8.
- 3) The Repayment Investigator testified that the Defendant failed to report that she and her children's absent parent, ----, had signed a separation agreement (D-9) dated July 1, 2009 in which ----agreed to pay the Defendant \$600 per month in child support. Exhibit D-9 includes child support payment information and reveals that the Defendant received \$600 in child support for December 2009, January 2010 and February 2010. Failure to report the income resulted in an over issuance of \$313 in SNAP benefits for the period of December 2009 through February 2010, as revealed in a Food Stamp Claim Determination form (D-2).
- 4) Although the Defendant did not appear at the hearing, she returned a copy of the IG-BR-30 to the Hearing Officer with a written note indicating that she accepted the 12-month disqualification and waived her right to a hearing. The Department was unable to accept the Defendant's waiver, however, because the Defendant did not sign an IG-BR-44, Waiver of Administrative Disqualification Hearing form. Therefore, the hearing proceeded as scheduled.
- 5) West Virginia Income Maintenance Manual Section 1.2.E (D-14) states that the client's responsibility is to provide information about his/her circumstances so the worker is able to make a correct decision about his/her eligibility.
- 6) West Virginia Income Maintenance Manual Section 10.3N states that child support is counted as unearned income for the SNAP.
- 7) West Virginia Income Maintenance Manual Section 20.2 (D-15):

When an AG (Assistance 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.

- 8) West Virginia Income Maintenance Manual Section 20.2.2 (D-15):

IPV's [sic] include making false or misleading statements, misrepresentations, concealing or withholding information, and committing any act that violates the Food Stamp Act of 1977, Food Stamp regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of Food Stamps.

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: (Section 9.1, A, 2, g) 1st Offense: 1 year (Disqualification).

- 9) WVDHHR Common Chapters Manual Section 740.11.D provides 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 benefits.

VIII. CONCLUSIONS OF LAW:

- 1) Policy states that when an Assistance 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.
- 2) If it is determined that an Intentional Program Violation has been committed, an appropriate disqualification penalty is imposed on the Assistance Group.
- 3) Evidence reveals that the Defendant failed to report the receipt of child support income during her SNAP redetermination in November 2009, despite having received \$600 monthly in child support on a continual basis since a separation agreement was drafted with the absent parent in July 2009.
- 4) The Defendant falsely reported her household income and, as a result, received SNAP benefits to which she was not entitled. Therefore, the Department is correct in its proposal to impose an Intentional Program Violation.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's proposal to impose an Intentional Program Violation penalty. The penalty period will begin in September 2010.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 30th Day of July, 2010.

Pamela L. Hinzman
State Hearing Officer