



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1900 Kanawha Blvd, East, Bldg 6, Room 817-B
Charleston, WV 25303

Joe Manchin III
Governor

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

February 10, 2010

Dear -----:

Attached is the summary of the final findings of fact and conclusions of law on the SNAP Administrative Disqualification Hearing held August 6, 2009 for the purpose of determining whether an Intentional Program Violation (IPV) was committed by you.

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 SNAP, formerly known as 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, Chapter 20.2; Code of Federal Regulations 7 CFR ' 273.16)

Information submitted at the hearing reveals that you intentionally provided false and misleading information about your household income in order to receive SNAP benefits for which you were not 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. Your disqualification from SNAP will begin effective March 1, 2010.

Sincerely,

Erika H. Young
Chairman, State Board of Review

cc: Board of Review
Marshall Daniels, Repayment Investigator

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

-----,

Defendant,

v.

Action Number: 09-BOR-1270

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

Movant.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the Board of Review resulting from an Administrative Disqualification Hearing 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 August 6, 2009. The decision issued in this matter on January 29, 2010 is vacated by this decision.

II. PROGRAM PURPOSE:

The purpose of SNAP, formerly known as the 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 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:

Marshall Daniels, Repayment Investigator

Presiding at the Hearing was Todd Thornton, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION 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 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 Fraud Referral form, dated March 28, 2006
- D-2 Case Comments screen print
- D-3 Investigation Findings screen print
- D-4 Income Verification
- D-5 Employee Wage Data screen print
- D-6 Food Stamp Allotment Determination screen prints
- D-7 Food Stamp Issuance History
- D-8 Food Stamp Claim Determination forms
- D-9 West Virginia Income Maintenance Manual, Chapter 2.2
- D-10 West Virginia Income Maintenance Manual, Chapter 20.2
- D-11 West Virginia Income Maintenance Manual, Chapter 9.1
- D-12 West Virginia Income Maintenance Manual, Chapter 20.2

VII. FINDINGS OF FACT:

- 1) The Department is alleging an act of Intentional Program Violation, or IPV, in the Defendant's case, due to income not reported from her husband's employment. This income was allegedly not reported during a review of eligibility for SNAP, formerly known as the Food Stamp Program.
- 2) The hearing convened as scheduled at 2:00 p.m., and as of 2:15 p.m., the Defendant failed to appear. As set forth in regulations (7 CFR §273.16(e)(4)), and State Policy (West Virginia Department of Health and Human Resources Common Chapters Manual, 740.20), the hearing was conducted without the Defendant in attendance.
- 3) The Code of Federal Regulations, 7 CFR §273.16(c), defines an IPV as:
 - (c) Definition of intentional Program violation. 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 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).

- 4) The Department's evidence and testimony revealed that the husband of Defendant, who was a member of the Defendant's Food Stamp/SNAP assistance group, was employed full-time beginning July 24, 2003 through and including August 2004 earning an average of \$1300 per month and that Defendant withheld that fact and did not report her husband's employment until July 2004.
- 5) Defendant's assistance group received Food Stamp/SNAP benefits for the period September 2003 through July 2004 with none of her husband's income having been considered.
- 6) The West Virginia Income Maintenance Manual, Chapter 9.1.A.2.h, states:

h. Intentional Program Violation (IPV)

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

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

VIII. CONCLUSION OF LAW:

The Department clearly established that Defendant withheld information concerning her husband's employment and earnings resulting in her assistance group having received in excess of \$3000 in Food Stamp/SNAP benefits to which it was not entitled. Such an act constitutes an intentional violation and subjects the defendant to disqualification from SNAP for a period of twelve months.

IX. DECISION:

It is the finding of the Board of Review that Defendant committed an Intentional Program Violation and will be disqualified from participation in SNAP for a period of twelve months beginning with March 2010.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Defendant's Recourse to Hearing Decision

ENTERED this _____ day of February, 2010.

Chairman, Board of Review