



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
203 E. Third Avenue
Williamson, WV 25661**

**Earl Ray Tomblin
Governor**

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

November 23, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on the Supplemental Nutrition Assistance Program (SNAP) Administrative Disqualification Hearing, held on September 2, 2010, 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 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.

An Intentional Program Violation consists of having intentionally made a false or misleading statement, or misrepresented, concealed or withheld facts; or committed any act that constitutes a violation of the Food Stamp Act, SNAP regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of SNAP benefits. [WV Income Maintenance Manual Section 20.2,C,2 and 7 CFR Section 273.16 (c)]

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 January 1, 2011.

Sincerely,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review
Christine Allen, Repayment Investigator

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

-----,

Defendant,

v.

Action Number: 10-BOR-1335

**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 an Administrative Disqualification Hearing concluded on November 23, 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. The hearing was convened on September 2, 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:

Christine Allen, Repayment Investigator

Presiding at the Hearing was Stephen M. Baisden, State Hearing Officer and a member of the State Board of Review.

The Hearing officer placed participant under oath at the beginning of the hearing.

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:

7 CFR §273.16 Code of Federal Regulations
Common Chapters Manual, Chapter 700
West Virginia Income Maintenance Manual: Chapter 1.2.E, Chapter 9.1.A.1, Chapter 10.3.CCCC.1, Chapter 20.1 and 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 IG-BR-31 Hearing Summary.
- D-2 ES-FS-5 SNAP Claim Determination sheet.
- D-3 IQFS Screen Print from RAPIDS system showing SNAP issuance history.
- D-4 EFAD Screen Print from RAPIDS showing SNAP allotment determination for each month of SNAP benefits received by Defendant.
- D-5 ES-FS-5a SNAP calculation sheets showing corrected benefit amounts.
- D-6 AQCM Screen print from RAPIDS System showing case member history.
- D-7 CMCC Screen print from RAPIDS System showing Income Maintenance worker case comments made from December 3, 2009 to April 15, 2010, in Defendant's case.
- D-8 Screen print from RAPIDS Data Exchange screens showing income from Social Security-Surviving Child payments to Defendant's two children.
- D-9 Screen print from SOLQ system showing Defendant was payee for his two children and the initial entitlement date was April, 2009.
- D-10 Verification from WV Vital Registration that the mother of Defendant's two children died on April 7, 2010.
- D-11 Certified extract from the Social Security Administration showing Defendant's two children began receiving \$194/m each in Social Security benefits on May 20, 2009, and continued receiving this income without interruption through May 19, 2010.
- D-12 Screen print from Bureau of Employment Programs showing unemployment benefits received by Defendant.
- D-13 Copy of Combined Application and Review forms dated and signed by Defendant.
- D-14 Copy of Rights and Responsibilities forms dated and signed by Defendant.
- D-15 Copy of appointment letter (IFM-1-7d) sent to Defendant asking him to meet with Repayment Investigator to discuss the referral.
- D-16 Copy of IFM-BR-44 Waiver of Administrative Disqualification Hearing form and IFM-BR-44a Notice of Intent to Disqualify form sent to Defendant.
- D-17 Copy of Income Maintenance Manual Chapter 1.2.E showing client responsibility for providing accurate information.
- D-18 Copy of Income Maintenance Manual Chapter 10.3.CCCC showing that earnings from paid employment are counted as earned income for the SNAP program.
- D-19 Copy of Income Maintenance Manual Chapter 20.1 and 20.2 showing SNAP overpayment claims and repayment procedures.
- D-20 Copy of the Code of Federal Regulations (CFR) §273.16 showing disqualifications for Intentional Program Violations.

VII. FINDINGS OF FACT:

- 1) The Department is alleging an act of Intentional Program Violation, or IPV, in the Defendant's SNAP case because he allegedly failed to report during a SNAP application interviews on December 3, 2009, that each of his two children received \$194 per month in Social Security-Surviving Child benefits, and had done so since May, 2009.
- 2) Defendant was mailed notice of the Administrative Disqualification Hearing on August 2, 2010, by first class mail. The notice was sent to -----, -----. This is the address at which Defendant receives his public assistance benefits.
- 3) The hearing was scheduled for 11:00 a.m. on September 2, 2010, and as of 11:15 a.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 convened at 10:15 a.m., and was conducted without the Defendant in attendance.
- 4) On December 3, 2009, Defendant applied for SNAP benefits at the WV Department of Health and Human Resources, [REDACTED] County office in [REDACTED] WV. An Economic Service Worker (ESW) recorded that he made the application and he reported at that time that the only income in his SNAP assistance group was his Unemployment Compensation Insurance (UCI) payments of \$276 per week plus an addition to the UCI payments in the amount of \$25 per week from the President's Economic Stimulus Act. (Exhibit D-7.) At the conclusion of the application interview, Defendant signed and dated a DFA-RFA-1, an application form which contained information he had given the worker during the interview (Exhibit D-13), including information that the only income in his SNAP assistance group was the UCI benefits plus the Stimulus pay. He signed and dated a DFA-RR-1, a Rights and Responsibilities form at each interview. (Exhibit D-14.) The application form signature page states,

I understand my responsibility to provide complete and truthful information. I have reviewed or had read to me the information contained in this automated portion of the application form and I understand the information. I understand that it is a criminal violation of federal and state law to provide false or misleading information for the purpose of receiving benefits to which I am not by law entitled. Under penalty of perjury, I certify that the statements are true and correct.

The DFA-RR-1, Rights and Responsibilities form is a list of applicants' rights and responsibilities for each program for which an applicant applies. The applicant signifies that he or she is aware of each right or responsibility by checking "Yes" or "No" at each item. Under the SNAP Program section of the form, item #4 states,

I understand if I am found (by court action or administrative disqualification hearing) to have committed an act of intentional program violation, I will not receive SNAP 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.

Defendant has marked "Yes" at this item.

- 5) The Department submitted documentation to show that Defendant's two children began receiving Social Security-Surviving Child benefits following their mother's death. It was documented that each child received \$194 per month beginning May 20, 2010 and that Defendant was the payee of these benefits.
- 6) The Repayment Investigator completed a Food Stamp [SNAP] Claim Determination form, wherein she calculated that Defendant was overpaid SNAP benefits from the month of the application, December, 2009, to the month that the income was entered correctly, April 2010, and that the amount of the overpayment was \$283. (Exhibit D-2.)
- 7) The Code of Federal Regulations, 7 CFR §273.16(c) (Exhibit D-20), defines an Intentional Program Violation (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 [SNAP] 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).
- 8) The West Virginia Income Maintenance Manual, Chapter 1.2.E (Exhibit D-17), states:

The client's responsibility is to provide information about his circumstances so the worker is able to make a correct decision about his eligibility . . . The client must be instructed that his failure to fulfill his obligation may result in one or more of the following actions: denial of the application; closure of the active AG [assistance group]; removal of the individual from the AG; repayment of benefits; reduction in benefits.
- 9) The West Virginia Income Maintenance Manual, Chapter 10.3.CCCC (Exhibit D-18) states that Social Security payments received in a SNAP assistance group is counted as unearned income.
- 10) The West Virginia Income Maintenance Manual, Chapter 20.2.C.2 (Exhibit D-19), states:

IPV's 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 [SNAP] regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of SNAP benefits.
- 11) The West Virginia Income Maintenance Manual, Chapter 20.6.A states:

A willfully false statement is one that is deliberately given, with the intent that it be accepted as true, and with the knowledge that it is false. [I]t is not

essential that an affirmative representation be made. Misrepresentation may also be the suppression of what is true, as well as in the representation of what is false.

VIII. CONCLUSIONS OF LAW:

The Department has established that the Defendant made a willful (or intentional) false statement, to the effect that his assistance group received no income other than his Unemployment Compensation Insurance, during a SNAP benefits application on December 3, 2009. He signed an application form which contained the incorrect information that this was the only income in his assistance group, and he signed a Rights and Responsibilities document indicating that he was aware of his responsibility to provide complete and accurate information and of the penalties for not doing so.

IX. DECISION:

Falsely reporting during a SNAP application that countable unearned income is not received in an assistance group, when one receives Social Security-Surviving Child benefits, is a clear violation of the regulations. Based on the evidence presented, I find the violation intentional.

The Agency's proposal to apply a SNAP disqualification is **upheld**. The Defendant will be disqualified from participation in SNAP for a period of twelve (12) months to begin effective January 1, 2011.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 23rd Day of November, 2010.

Stephen M. Baisden
State Hearing Officer