



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

Joe Manchin III  
Governor

Board of Review  
1400 Virginia Street  
Oak Hill, WV 25901

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

August 13, 2010

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 3, 2010 for the purpose of determining whether or not Intentional Program Violations occurred.

In arriving at a decision, the State Hearings 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 (SNAP) is based on current policy and regulations. These regulations provide that an 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 (Code of Federal Regulations - 7 CFR § 273.16).

The information submitted at your hearing revealed that you reported false information regarding your household's income at your February 2010 SNAP application.

It is the decision of the State Hearing Officer to **Uphold** the proposal of the Department to impose Intentional Program Violations against you effective September 2010.

Sincerely,

Kristi Logan  
State Hearings Officer  
Member, State Board of Review

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

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

----- and -----,

**Defendant and Co-Defendant,**

v.

**Action Numbers: 10-BOR-1488  
10-BOR-1489**

**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 August 3, 2010 for ----- and ----- . 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 Program entitled Supplemental Nutrition Assistance Program (SNAP) is administered by the West Virginia Department of Health & Human Resources.

The purpose of 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 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:**

Christine Allen, Repayment Investigator

Presiding at the Hearing was Kristi Logan , State Hearing Officer and a member of the Board of Review.

This hearing was held by videoconference.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not Defendants committed Intentional Program Violations.

**V. APPLICABLE POLICY:**

WV Income Maintenance Manual § 1.2 E, 9.1 A and 10.3 EE  
Code of Federal Regulations- 7 CFR § 273.16

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

- D-1 Hearing Summary
- D-2 SNAP Claim Determination Form
- D-3 SNAP Issuance History Screen (IQFS) from RAPIDS Computer System
- D-4 SNAP Allotment Determination Screen (EFAD) from RAPIDS Computer System
- D-5 SNAP Claim Calculation Sheet
- D-6 WV WORKS Issuance History Screen (IQAF) from RAPIDS Computer System
- D-7 Case Members History Screen (AQCM) from RAPIDS Computer System
- D-8 Case Comments (CMCC) from RAPIDS Computer System
- D-9 Employment Verification from [REDACTED] DBA [REDACTED]
- D-10 Notification Letter dated February 24, 2010
- D-11 Verification Request Letter dated March 2, 2010
- D-12 Notification Letter dated March 22, 2010
- D-13 Notification Letter dated March 23, 2010
- D-14 Combined Application Form dated February 23, 2010
- D-15 Rights and Responsibilities Form dated February 23, 2010
- D-16 Repayment Notification Letter dated May 17, 2010
- D-17 Notification of Intent to Disqualify dated May 17, 2010
- D-18 WV Income Maintenance Manual § 1.2 E
- D-19 WV Income Maintenance Manual § 10.3 EE
- D-20 WV Income Maintenance Manual § 20
- D-21 Code of Federal Regulations- 7 CFR § 273.16

**Defendants' Exhibits:**

None

**VII. FINDINGS OF FACT:**

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from Department of Health and Human Resources' Repayment Investigator, Christine Allen, on June 24, 2010. The Department contends that Defendants have committed an Intentional Program Violation (IPV) and is recommending that Defendant be disqualified from participation in SNAP for 12 months and Co-Defendant for 24 months.
- 2) Defendants were notified of the hearing date by letter mailed by this Hearing Officer on June 28, 2010. Defendants failed to appear at the hearing or provide good cause for their failure to do so.

- 3) Defendants applied for SNAP on February 23, 2010. They reported to their caseworker that their household had no income (D-8 and D-14). SNAP benefits were approved based on the information provided by Defendants.

On March 1, 2010, Co-Defendant reported that she had started working at the [REDACTED] Motel. Co-Defendant provided her caseworker with paystubs on March 22, 2010 to verify her earned income. SNAP benefits were reduced to reflect the onset of the earned income (D-8).

On April 19, 2010, Co-Defendant contacted her caseworker to report a decrease in her hours at the [REDACTED] Motel. When Co-Defendant submitted additional paystubs as requested by her caseworker to determine an average of hours worked, it was discovered Co-Defendant had been working for [REDACTED] Motel since November 9, 2009 (D-8 and D-9).

- 4) The Department contends Defendants intentionally reported false information at their SNAP application in February 2010. Co-Defendant had been working three (3) months prior to the SNAP application and receiving regular income from [REDACTED] Motel. The result of the misrepresentation was an overpayment of SNAP benefits of \$121 issued from March 2010 through April 2010 (D-2 and D-5).

- 5) WV Income Maintenance Manual § 1.2 E 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. When the client is not able to provide the required verification, the Worker must assist him. The client must be instructed that his failure to fulfill his obligation may result in one or more of the following actions:

- Denial of application
- Closure of the active Assistance Group (AG)
- Removal of the individual from the AG
- Repayment of benefits
- Reduction in benefits

- 6) WV Income Maintenance Manual § 10.3 EE states:

Employment

Compensation as an employee counts as earned income for SNAP

- 7) WV Income Maintenance Manual § 9.1 A(2)h states:

Persons who have been found guilty of an Intentional Program Violation (IPV) are disqualified [from SNAP] as follows:

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

- 8) Code of Federal Regulations- 7 CFR § 273.16 states:

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 [SNAP] Act, the Food Stamp Program Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt or possession of Food Stamp coupons.

**VIII. CONCLUSIONS OF LAW:**

- 1) In order for an Intentional Program Violation to be established, it must be shown by clear and convincing evidence that the Defendant intentionally made a false or misleading statement or withheld or concealed facts from the Department.
- 2) Defendants intentionally made a false statement at their SNAP application in February 2010 by reporting no income for the household. Co-Defendant was employed at the time of application and receiving regular earnings. By reporting false information regarding Co-Defendant's employment, Defendants were issued SNAP benefits for which they were not entitled to receive.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to impose an Intentional Program Violation against Defendant, first offense and an Intentional Program Violation against Co-Defendant, second offense effective September 2010.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 13<sup>th</sup> day of August 2010.**

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**Kristi Logan  
State Hearing Officer  
Member, Board of Review**