



**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**

October 22, 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 October 20, 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 rental 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-1584

**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 October 20, 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 August 26, 2010, but was rescheduled when the hearing notice was returned to the Hearing Officer by the Post Office as undeliverable. The hearing was scheduled for September 22, 2010, but was again rescheduled after the letter was returned to the Hearing Officer as undeliverable.

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:

-----, Defendant (participated telephonically)
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.

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 Section 740.11.D

West Virginia Income Maintenance Manual Sections 1.2.E, 10.4, 20.1, 20.2 and 20.6

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Food Stamp Claim Determination Form (October 2009-April 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 August 27, 2009, March 25, 2010 and April 27, 2010
- D-8 Rental income verification signed by -----
- D-9 Combined Application and Review Form and Rights and Responsibilities signed by Defendant on August 27, 2009
- D-10 Combined Application and Review Form and Rights and Responsibilities signed by Defendant on March 25, 2010
- D-11 Notification of Intent to Disqualify
- D-12 Waiver of Administrative Disqualification Hearing
- D-13 West Virginia Income Maintenance Manual Section 1.2E
- D-14 West Virginia Income Maintenance Manual Sections 20.1 and 20.2
- D-15 West Virginia Income Maintenance Manual Section 20.6
- D-16 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 July 14, 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 August 27, 2009, signing a Combined Application and Review Form with associated Rights and Responsibilities (D-9). The Defendant's signature is located on Page 13 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 child support and Social Security. The Defendant indicated that she resided in the household with only her husband and two children.
- 3) The Defendant and her husband, -----, who no longer resides in the household, completed another SNAP redetermination on March 25, 2010 with associated Rights and Responsibilities (D-10). The Defendant's and her husband's signatures are located on Page 13 of the review form, attesting that they had provided complete and truthful information to the Department. The Defendant again reported the household income as child support and Social Security, and indicated that she resided in the household with her husband and two children.
- 4) On April 27, 2010, the Defendant's brother-in-law, -----, informed a DHHR worker that he had been residing in the Defendant's household since August 2009 and had paid his brother and sister-in-law \$350 per month in rent since that time. This information is documented in case comments dated April 27, 2010 (D-7). The receipt of rental income was verified by --- -- in a written statement dated April 23, 2010 (D-8).
- 5) The Repayment Investigator testified that failure to report the income resulted in an over issuance of \$597 in SNAP benefits for the period of October 2009 through April 2010, as revealed in a Food Stamp Claim Determination form (D-2).
- 6) The Defendant testified that her husband has mental health issues and denied that her brother-in-law had resided in her household.
- 7) West Virginia Income Maintenance Manual Section 1.2.E (D-13) 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.
- 8) West Virginia Income Maintenance Manual Section 10.3PPP states that rental income is counted as unearned income for the SNAP.
- 9) West Virginia Income Maintenance Manual Section 20.2 (D-14):

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.

10) West Virginia Income Maintenance Manual Section 20.2.2 (D-14):

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).

- 11) 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.

WVDHHR Common Chapters Manual Section 740.22.M provides the following directives in regard to Administrative Disqualification Hearings:

Decision – The Hearing Officer shall base the determination of Intentional Program Violation on clear and convincing evidence that demonstrates that the defendant committed, and intended to commit, Intentional Program Violation as defined in Section 740.11 of this Chapter. The Hearing Officer shall weigh the evidence and testimony presented and render a decision based solely on proper evidence given at the hearing. In rendering a decision, the Hearing Officer shall consider all applicable policies of the Department, state and federal statutes, rules or regulations, and court orders. The decision shall include reference to all pertinent law or policy. If the Hearing Officer rules that the defendant committed an Intentional Program Violation, he or she will include the length and the beginning date of the disqualification penalty.

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) During the hearing, the Defendant denied that her brother-in-law had resided in her household and paid rent. However, her brother-in-law reported the living arrangements to DHHR in April 2010 and her husband verified the receipt of rent payments in a written statement.
- 4) Based on evidence presented during the hearing, the Defendant withheld information regarding 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 and disqualify the Defendant from the SNAP for a period of one (1) year. The penalty period will begin in December 2010.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 22nd Day of October, 2010.

Pamela L. Hinzman
State Hearing Officer