



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Joe Manchin III
Governor

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

October 19, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 26, 2010 for the purpose of determining whether or not an Intentional Program Violation 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 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 falsely reported no income for your household at SNAP reviews after the onset of your husband's Unemployment Compensation.

It is the decision of the State Hearings Officer to **Uphold** the proposal of the Department to impose an Intentional Program Violation against you effective December 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**

-----,

Defendant,

v.

Action Number: 10-BOR-1605

**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 26, 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.

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:

-----, Witness for Defendant
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 Defendant committed an Intentional Program Violation.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 1.2 E, 9.1 A and 10.3 KKKK
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 (AQCМ) from RAPIDS Computer System
- D-8 Case Comments (CMCC) from RAPIDS Computer System
- D-9 Unemployment Compensation Benefit Payment History
- D-10 Notification Letter dated June 2, 2009
- D-11 Notification Letter dated November 30, 2009
- D-12 Combined Application Forms dated May 29, 2009 and November 24, 2009
- D-13 Rights and Responsibilities Forms dated May 29, 2009 and November 24, 2009
- D-14 Repayment Notification Letter dated June 14, 2010
- D-15 Notification of Intent to Disqualify dated June 14, 2010
- D-16 WV Income Maintenance Manual § 1.2 E
- D-17 WV Income Maintenance Manual § 10.3 KKKK
- D-18 WV Income Maintenance Manual § 20
- D-19 Code of Federal Regulations- 7 CFR § 273.16

Defendant's 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 July 14, 2010. The Department contends that Defendant has committed an Intentional Program Violation (IPV) and is recommending that she be disqualified from participation in SNAP for 12 months.

- 2) Defendant was notified of the hearing by letter mailed July 20, 2010 by this Hearing Officer. Defendant failed to appear at the hearing or provide good cause for her failure to do so. In accordance with 7 CFR §273.16(e)(4) and Common Chapters Manual §740.20, the hearing was held in the Defendant's absence.
- 3) Defendant's husband, -----, completed a SNAP review on May 29, 2009. He reported to his caseworker that he was a self-employed contractor but had not had any work in the previous three (3) months due to inclement weather. -----reported no income for his household. SNAP benefits were approved based on the information provided. Defendant signed the Combined Application Form and Rights and Responsibilities Form along with -----(D-8 and D-12).
- 3) Defendant completed a SNAP review with her husband on November 24, 2009. They reported -----having no work since the previous summer. SNAP benefits continued for Defendant's household based on zero income (D-8 and D-12).
- 4) In May 2010, the Department discovered via data exchange that Defendant's husband had been receiving Unemployment Compensation (UCI) since May 6, 2009. -----weekly benefit amount was \$104 (\$129 including stimulus payment) which continued from May 2009 through August 2009 and resumed in October 2009 to present (D-9).

The Department contends Defendant intentionally reported false information regarding her household's income by failing to report the onset of the UCI at SNAP reviews in May 2009 and November 2009. The result of this misrepresentation was an overpayment of SNAP benefits of \$516.

- 5) ----- testified on behalf of Defendant that he was referred to register with the Bureau of Employment Programs (BEP) by the Department and thought the Department would be aware that he was receiving UCI. -----stated he did not know he would have to report the income himself.

-----testified that he completed the SNAP reviews while Defendant stayed in the car with their three year old child. -----stated he would call Defendant to come in and sign the paperwork and that she was unaware of what was reported during the interviews.

- 6) 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

- 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) WV Income Maintenance Manual § 10.3 KKKK states:

Unemployment Compensation: Counts as unearned income for SNAP

- 9) 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) Defendant's started receiving Unemployment Compensation on May 6, 2009, prior to his SNAP review on May 29, 2009. Defendant intentionally reported false information at the SNAP review in November 2009 and signed the Combined Application Form and Rights and Responsibilities Form stating no income for her household. The result of the misrepresentation was an overpayment of SNAP benefits issued to Defendant for which she was not eligible 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 effective December 2010.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 19th day of October 2010.

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