



**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**

December 1, 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 September 8, 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 composition 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
Brian Shreve, Repayment Investigator

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

-----,

Defendant,

v.

Action Number: 10-BOR-1648

**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 December 1, 2010 for ----- . This hearing was held at the Logan County office of the WV Department of Health and Human Resources (DHHR), 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 8, 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:

-----, Defendant

Brian Shreve, Repayment Investigator

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

The Hearing Examiner placed both participants 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, Chapter 20.2; Chapter 20.6

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Copy of the Code of Federal Regulations (CFR) §273.16 showing disqualifications for Intentional Program Violations.
- D-2 BVRF Screen print from RAPIDS System showing referral for recoupment.
- D-3 ES-FS-5, SNAP Claim Determination sheet.
- D-4 E-Mail sent to the Cabinet Secretary of the WV Department of Health and Human Resources on November 9, 2009.
- D-5 Copy of employment verification form dated March 29, 2010, sent from Repayment Investigator to [REDACTED] LLC and returned to Investigator on April 7, 2010.
- D-6 CMCC Screen Print from RAPIDS System showing case comments made on October 12, 2009.
- D-7 CMCC Screen Print from RAPIDS System showing case comments made on March 2, 2009.
- D-8 Copy of Income Maintenance Manual Chapter 1.2.E showing customer responsibility for providing accurate information.
- D-9 Copy of Income Maintenance Manual Chapter 20.1 and 20.2 showing SNAP benefit claims and repayment procedures.
- D-10 Copy of Income Maintenance Manual Chapter 20.6.A showing definitions of Welfare Fraud.
- D-11 Copy of IFM-BR-44 Waiver of Administrative Disqualification Hearing form and IFM-BR-44a Notice of Intent to Disqualify form, and appointment letter for pre-hearing conference on July 9, 2010, sent to Defendant on June 24, 2010.
- D-12 Copy of OFS-REPAY-1, Repayment Agreement form, signed by Defendant on June 6, 2010, agreeing to repay a SNAP overissuance.

VII. FINDINGS OF FACT:

- 1) The Department is alleging an act of Intentional Program Violation, or IPV, in the Defendant's SNAP case because she allegedly failed to report that her spouse was working and receiving earned income, during a SNAP application interview on October 12, 2009 and a redetermination interview on March 2, 2010.

- 2) On October 12, 2009, Defendant came into the WV Department of Health and Human Resources, [REDACTED] County office in [REDACTED] WV, and completed a application for SNAP and Medicaid benefits. An Economic Service Worker (ESW) recorded that Defendant and spouse made the application and that her household consisted of herself, her spouse and two children. (Exhibit D-6.) Department's representative testified that the only income reported was Defendant's.
- 3) On March 2, 2010, Defendant and spouse returned to the [REDACTED] County office of the WV Department of Health and Human Resources, and completed a review/redetermination for SNAP and Medicaid benefits. An Economic Service Worker (ESW) recorded that Defendant and spouse reported no changes in their household composition, and only the Defendant had earned income. (Exhibit D-7.)
- 4) On November 3, 2009, an anonymous report was e-mailed to the WV DHHR internet site which indicated that Defendant's spouse was working and was not reporting his earnings to the DHHR. (Exhibit D-4.)
- 5) Department's representative, the Repayment Investigator who investigated the allegations, presented evidence to indicate that Defendant's spouse was employed by [REDACTED] LLC, and worked at a fast-food restaurant from October 9 to December 31, 2009, and in that time he received \$1,943.78 in gross pay. (Exhibit D-5.)
- 6) Defendant testified that when she applied for SNAP benefits on October 12, 2009, she was "almost positive" that the spouse was not working. She testified that he made very little money, no more than \$200 biweekly, at the fast-food restaurant at which he worked, so she did not think she had to report his earnings. She did not offer substantial testimony or evidence to refute the Department's allegations.
- 7) The Code of Federal Regulations, 7 CFR §273.16(c) (Exhibit D-1), 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 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-8), 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 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

10) The West Virginia Income Maintenance Manual, Chapter 20.2 (Exhibit D-9), 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 regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of Food Stamps.

11) The West Virginia Income Maintenance Manual, Chapter 20.6.A (Exhibit D-10), 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. CONCLUSION OF LAW:

The Department has established that the Defendant and spouse intentionally failed to report that spouse received earned income during a SNAP and Medicaid benefits application on October 12, 2009 and on a SNAP and Medicaid review on March 2, 2010.

IX. DECISION:

Withholding information concerning household composition and earned income during a SNAP application is a clear violation of the regulations. Based on the evidence presented, I find the violations intentional.

The Agency's proposal to apply a SNAP disqualification is **upheld**. The Defendant will be disqualified from participation in SNAP, or the Food Stamp program, 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 1st Day of December, 2010.

**Stephen M. Baisden
State Hearing Officer**