



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

Joe Manchin III  
Governor

Board of Review  
P.O. Box 1736  
Romney, WV 26757

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

October 7, 2010

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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 September 21, 2010. The purpose of this hearing was to determine whether or not you committed an Intentional Program Violation.

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.

Eligibility for the Supplemental Nutrition Assistance Program is based on current policy and regulations. These regulations provide 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 an 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 § 20.2 and Code of Federal Regulations-7 CFR § 273.16).

The information which was submitted at your hearing revealed that you intentionally withheld information concerning your unemployment income.

It is the decision of the State Hearing Officer to **uphold** the Agency's proposal to apply a one (1) year SNAP disqualification penalty against you based on an Intentional Program Violation. Your penalty begins November 1, 2010.

Sincerely,

Eric L. Phillips  
State Hearing Officer  
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review  
Lori Woodward, RI

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

-----,

**Defendant,**

**v.**

**Action Number: 10-BOR-1693**

**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 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. This fair hearing was convened on September 21, 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  
-----, Defendant's witness and wife  
-----, Defendant's witness  
Lori Woodward, Repayment Investigator

It shall be noted that the Defendant provided testimony through sign language interpretation services by -----.

Presiding at the hearing was Eric L. Phillips, State Hearing Officer and a member of the Board of Review.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Defendant committed an Intentional Program Violation and should be disqualified for one year from participation in the Supplemental Nutrition Assistance Program or SNAP.

**V. APPLICABLE POLICY:**

Code of Federal Regulations, 7 CFR §273.16  
Common Chapters Manual, Chapter 700, Section 740  
West Virginia Income Maintenance Manual, Chapter 1.2, 20.2

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

**Department's Exhibits:**

- D-1 Combined Application and Review form dated September 14, 2009 with associated case comments
- D-2 Notice of Approval dated October 7, 2009
- D-3 Notice of Choice of Combined Wage Claim dated July 23, 2009
- D-4 Unemployment Compensation Benefit Payment History
- D-5 Food Stamp Claim Determination worksheet
- D-6 Notification of Intent to Disqualify dated July 28, 2010
- D-7 Waiver of Administrative Disqualification Hearing
- D-8 Request for an Administrative Disqualification Hearing
- D-9 West Virginia Income Maintenance Manual Chapter 1.2, 1.4, 2.2, 9.1
- D-10 West Virginia Income Maintenance Manual Chapter 20.2 and Common Chapters 740-740.11

**VII. FINDINGS OF FACT:**

- 1) The Board of Review received a request for an Administrative Disqualification Hearing on August 4, 2010 from the West Virginia Department of Health and Human Resources, hereinafter Department (Exhibit D-8). The Department contends that the Defendant committed an Intentional Program Violation (IPV) and recommends that the Defendant be disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP) for a twelve (12) month period.
- 2) On August 31, 2010, the Defendant completed Exhibit D-7, Waiver of Administrative Disqualification Hearing affirming that he read such notice and chose his right to an administrative hearing. Notice of such hearing was delivered on August 12, 2010 and the hearing was convened as scheduled on September 21, 2010.
- 3) On August 25, 2009 the Defendant initiated an application for SNAP assistance and completed a face-to-face interview for benefits on September 14, 2009. The Defendant completed Exhibit D-1, Combined Application and Review form, reporting his wife's earned income and monies from his mother-in-law as the only financial assistance available to the household. Exhibit D-1,

documents that the Defendant reported that he completed an application for unemployment compensation benefits but his application was denied due to his pending application for Social Security benefits. The Department issued the Defendant Exhibit D-2, Notice of Approval on October 7, 2009 informing him that his application for SNAP benefits had been approved retroactive to his initial application date of August 25, 2009.

- 4) Lori Woodward, Repayment Investigator, stated that the Defendant applied for the Low Income Energy Assistance Program (LIEAP) on December 7, 2009. As part of his application for LIEAP assistance, the Defendant submitted to the Department Exhibit D-3, Notice of Choice of Combined Wage Claim dated July 23, 2009. Exhibit D-3 documents in pertinent part:

Wage Information was returned to WV from the state(s) of [REDACTED] You are monetarily eligible on a separate claim against the transferring state(s), or you may remain on your WV combined wage claim.

Additionally this notice documents that the Defendant may chose between a weekly benefit amount of \$378.00 from the state of [REDACTED] or a weekly benefit amount of \$424.00 from the state of West Virginia.

- 5) Ms. Woodward testified that the Department investigated the Defendant's unemployment claim and discovered Exhibit D-4, Unemployment Compensation Benefit Payment History. This exhibit indicates that the Defendant began receiving \$449.00 in unemployment compensation on August 7, 2009. Ms. Woodward noted that the Defendant's unemployment compensation had been withheld from August 7, 2009 through September 4, 2009. On September 4, 2009 the Defendant began receiving a weekly benefit amount of \$449.00 consecutively through February 2010.
- 6) Ms. Woodward testified that it is the responsibility of the recipient to provide true and accurate information regarding their circumstances at each application and review. Ms. Woodward contends that the Defendant misrepresented his household income by stating his unemployment compensation had been denied, while contradicting evidence notes that unemployment compensation was received on September 4, 2009, ten days prior to the Defendant's face-to-face interview with the Department. Ms. Woodward presented Exhibit D-5, Food Stamp Claim Determination worksheet to establish that the withheld information concerning the Defendant's unemployment compensation resulted in an overpayment of \$1693.00 from the period of August 25, 2009 through December 2009.
- 7) The Defendant, who requires a sign language interpreter, stated that he initially applied for benefits on August 25, 2009 but was informed that an interpreter was unavailable to assist him with his application on the requested date. The Defendant chose to postpone the application in order to secure an interpreter to assist in his communication to the Department. On September 14, 2010, the Defendant, without the aid of an interpreter, completed an application for SNAP benefits. The Defendant stated that the unclear communication between himself and the Department worker resulted in the overpayment of benefits. The Defendant acknowledged that his application for unemployment compensation benefits was denied due to his pending application for Social Security disability payments and he appealed the decision with the Bureau of Employment Programs. The Defendant indicated that he experienced a one-month lapse in non-payment of unemployment compensation benefits while he was in appeal status. The Defendant stated that when his unemployment compensation benefits were reinstated on

September 4, 2009, he did not believe that he would receive payments on a consistent basis and did not report the income.

The Defendant's wife testified that the household was confused about the content of the letters that they received from the Department and were unaware of the requirements to report changes. She believed that information concerning the receipt of unemployment compensation benefits would have been automatically reported to the Department from the Bureau of Employment Programs.

8) West Virginia Income Maintenance Manual Chapter 1.2 indicates:

The client's responsibility is to provide information about his circumstances so the Worker is able to make a correct decision about his eligibility.

9) West Virginia Income Maintenance Manual Chapter 9.1 indicates:

Persons who have been found guilty of an IPV are disqualified as follows:

- 1<sup>st</sup> Offense: 1 Year
- 2<sup>nd</sup> Offense: 2 Years
- 3<sup>rd</sup> Offense: Permanent

10) Common Chapters Manual 740.11 states:

Intentional Program Violation- For the purpose of determining through an Administrative Disqualification Hearing whether or not a person has committed an Intentional Program Violation, the following criteria will be used. 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.

11) Common Chapters Manual 740.22 M states as follows:

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) The policy and regulations that govern SNAP benefits dictate that a program violation has occurred when an individual intentionally makes a false or misleading statement, or misrepresented, concealed or withheld facts relating to the use presentation, transfer, acquisition, receipt or possession of Food Stamp benefits.
- 2) The regulations state there must be clear and convincing evidence that demonstrates the Defendant intentionally committed an Intentional Program Violation.
- 3) The Department clearly established that the Defendant did not report his unemployment compensation during a September 2009 application for SNAP assistance. The Department showed that this false information led to a SNAP over issuance of \$1693.00.
- 4) The evidence presented during the Administrative Disqualification Hearing revealed that the Defendant received notification on July 23, 2009 informing him that he was monetarily eligible for unemployment compensation from another state. Additionally, evidence reveals that the Defendant received unemployment compensation on August 7, 2009 and September 4, 2009. Testimony indicates that unemployment compensation benefits were reinstated on September 4, 2009 and the receipt of income was known prior to the Defendant's application for benefits on September 14, 2009 therefore, the failure of the Defendant to report such information at his face-to-face interview for SNAP assistance clearly establishes intent.
- 5) In accordance with SNAP policy and regulations, an Intentional Program Violation has been committed and a disqualification penalty must be applied. The disqualification for a first (1<sup>st</sup>) offense is one year.
- 6) The Defendant is the only assistance group member subject to said disqualification penalty. The one year disqualification penalty will begin November 1, 2010 and will run concurrently for the next 12 months.

#### **IX. DECISION:**

Intentionally making a false or misleading statement or misrepresenting facts to secure SNAP benefits constitutes a clear violation of the regulations. Based on the evidence presented, I find the violation intentional.

The Department's proposal to apply a twelve (12) month disqualification is **upheld**.

#### **X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_\_ day of October 2010.**

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**Eric L. Phillips**  
**State Hearing Officer**