



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
203 E. Third Avenue
Williamson, WV 25661

Joe Manchin III
Governor

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

March 31, 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 November 5, 2009 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.

Intentional Program Violations 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. 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, Chapter 20.2 and Code of Federal Regulations 7 CFR ' 273.16)

Information submitted at the hearing reveals that you intentionally provided false and misleading information about your household income 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 May 1, 2010.

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: 09-BOR-1752

**West Virginia Department of
Health and Human Resources,**

Respondent.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from an Administrative Disqualification Hearing concluded on March 31, 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. The hearing was convened on November 5, 2009.

II. PROGRAM PURPOSE:

The purpose of the Supplemental Nutrition Assistance Program (SNAP), formerly known as the 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 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:

Brian Shreve, Repayment Investigator

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

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 20.2; Chapter 2.2.B

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 CMCC Screen Print from RAPIDS System showing case comments made on March 2, 2009.
- D-5 CMCC Screen Print from RAPIDS System showing case comments made on May 1, 2009.
- D-6 Copy of letter dated June 18, 2009 from Repayment Investigator to the Regional Office of the Veteran's Administration in [REDACTED] WV.
- D-7 Computer Application Form (CAF) from RAPIDS System dated March 2, 2009 and Rights and Responsibilities Form (DFA-RR-1), both signed and dated by Defendant.
- 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 letters from Repayment Investigator to Defendant, including Notification of Intent to Disqualify dated July 22, 2009, and appointment letter for a pre-hearing conference dated August 6, 2009.

VII. FINDINGS OF FACT:

- 1) The Department is alleging an act of Intentional Program Violation, or IPV, in the Defendant's SNAP (formerly Food Stamp) case because he allegedly failed to report his income from the Veteran's Administration during an application interview on March 2, 2009.
- 2) Defendant was mailed notice of the Administrative Disqualification Hearing on October 5, 2009, by first class mail. The notice was sent to -----, ----- . This is the address at which Defendant receives his benefits.

- 3) The hearing was scheduled for 11:00 a.m. on November 5, 2009, and as of 11:15 a.m., the Defendant failed to appear. As set forth in regulations (7 CFR §273.16(e) (4)), and State Policy (West Virginia Department of Health and Human Resources Common Chapters Manual, 740.20), the hearing convened at 11:15 a.m., and was conducted without the Defendant in attendance.
- 4) On March 2, 2009, Defendant came into the WV Department of Health and Human Resources, [REDACTED] County office in [REDACTED] WV, and applied for SNAP benefits. An Economic Service Worker (ESW) recorded that he made the application and he reported having no income at that time. (Exhibit D-4) At the conclusion of the application interview, Defendant signed and dated a DFA-RFA-1, a Common Application Form (CAF) which contained information he had given the Worker during the interview, and he signed and dated a DFA-RR-1, a Rights and Responsibilities form. (Exhibit D-7) The CAF signature page states,

I understand my responsibility to provide complete and truthful information. I have reviewed or had read to me the information contained in this automated portion of the application form and I understand the information. I understand that it is a criminal violation of federal and state law to provide false or misleading information for the purpose of receiving benefits to which I am not by law entitled. Under penalty of perjury, I certify that the statements are true and correct.

The DFA-RR-1, Rights and Responsibilities form is a list of applicants' rights and responsibilities for each program for which an applicant applies. The applicant signifies that he or she is aware of each right or responsibility by checking "Yes" or "No" at each item. Under the SNAP Program section of the form, item #4 states,

I understand if I am found (by court action or administrative disqualification hearing) to have committed an act of intentional program violation, I will not receive SNAP benefits as follows: First Offense – one year; Second Offense – two years; Third Offense – permanently. In addition, I will have to repay any benefits received for which I was not eligible.

Defendant has marked "Yes" at this item.

- 5) On May 1, 2009, another ESW recorded that Defendant came into the WV DHHR, [REDACTED] County Office, to apply for Emergency Assistance. (Exhibit D-5) The worker recorded in pertinent part,

[Defendant] in office to apply for el [Emergency LIEAP] . . . States he rec[ieived] VA comp [Veteran's Administration compensation] of \$644 a mo[nth] copy of check he rec[ieived] for 5/09 seen and copied to verify. This income was not reported. States he has been rec[ieving] the VA for about a 1yr [sic] or so.

On that same date, the ESW initiated a computer-generated repayment-benefit recovery referral to the Repayment Investigator. (Exhibit D-2)

- 6) On June 18, 2009, a Repayment Investigator sent a letter with an attached income verification form to the Veteran's Service Officer of the Veterans Administration Regional Office in [REDACTED] WV. (Exhibit D-6) The Veteran's Service Officer completed the income verification form on July 10, 2009 and returned it to the Repayment Investigator. The Veteran's Service Officer reported that Defendant had received payments from the VA in the amount of \$644 per month beginning in December of 2008, up to and including the month of July, 2009. Before this, Defendant received VA benefits in varying amounts, beginning in July, 2008.
- 7) The Repayment Investigator completed an ES-FS-5, Food Stamp Claim Determination, wherein he calculated that Defendant was overpaid SNAP benefits from the date of the SNAP application, March 2, 2009, to the month that the VA benefits were reported, May, 2009, and that the amount of the overpayment was \$445. (Exhibit D-3) The Repayment Investigator sent to Defendant an IG-BR-44a, Notification of Intent to Disqualify, dated July 22, 2009, and a letter dated August 6, 2009, asking Defendant to come to the WV DHHR, [REDACTED] County Office to discuss the matter on August 13, 2009. (Exhibit D-11) Defendant did not attend this appointment.
- 8) 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).
- 9) 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.
- 10) 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

- 11) The West Virginia Income Maintenance Manual, Chapter 20.2.C.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.

- 12) 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. CONCLUSIONS OF LAW:

The Department has established that the Defendant intentionally failed to report income from the Veteran's Administration during an application for SNAP benefits on March 2, 2009. He signed a Computer Application Form to the effect that he received no income, and he signed a Rights and Responsibilities document indicating that he was aware of his responsibility to provide complete and accurate information and of the penalties for not doing so.

IX. DECISION:

Failing to report income during a SNAP application is a clear violation of the regulations. Based on the evidence presented, I find the violation 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 May 1, 2010.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 31st Day of March, 2010.

**Stephen M. Baisden
State Hearing Officer**