



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 Washington Street, West
Charleston, WV 25313

Joe Manchin III
Governor

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

September 29, 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 28, 2010 for the purpose of determining whether or not 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.

Eligibility for SNAP is based on current policy and regulations. Some of these regulations state as follows: 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 §20.2 and Code of Federal Regulations - 7 CFR §273.16).

The information submitted at the hearing showed that you intentionally withheld information about your household's composition in order to receive SNAP for which you were not entitled.

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,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review/Jennifer Butcher, Kanawha DHHR

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

-----,

Defendant

v.

Action Number: 10-BOR-1799

**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 hearing was convened on September 28, 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:

Jennifer Butcher, State Repayment Investigator, Department Representative

Presiding at the Hearing was Cheryl Henson, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Defendant committed an intentional program violation and should be disqualified for one year from participation in SNAP.

V. APPLICABLE POLICY:

7 CFR § 273.16 USDA Code of Federal Regulations
Common Chapters Manual Chapter 700, Appendix A
West Virginia Income Maintenance Manual §1.2, 9.1.A.2.h and 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Benefit Recovery Referral Screen from RAPIDS dated September 15, 2010
- D-2 WV Income Maintenance Manual §1.2.E
- D-3 Code of Federal Regulations §7 CFR 273.16
- D-4 Combined Application Form (CAF) dated January 28, 2010 and supporting documents
- D-5 Narrative from Child Support Unit case comments dated March 10, 2010
- D-6 Referral and Communications Form dated March 10, 2010
- D-7 Case comments from Department's RAPIDS computer system
- D-8 Emergency Low Income Energy Assistance Program (LIEAP) application and supporting documents
- D-9 Case comments from Department's RAPIDS computer system dated March 16, 2010
- D-10 Case comments from Department's RAPIDS computer system dated March 19, 2010
And copies of pay stubs
- D-11 WV Income Maintenance Manual Section 2.2.B
- D-12 WV Income Maintenance Manual Section 2.2.B.1
- D-13 WV Income Maintenance Manual Section 2.2
- D-14 Food Stamp Claim Determination forms and supporting documents
- D-15 WV Income Maintenance Manual Section 20.6.A
- D-16 Notification letters to Defendant dated August 11, 2010
- D-17 WV Income Maintenance Manual Section 20.2.C.2
- D-18 WV Income Maintenance Manual Section 20.2.E.3.a
- D-19 WV Income Maintenance Manual Section 20.2.F.2.a

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing (ADH) was received by the Board of Review from the Department of Health and Human Resources (Department) on August 24,

2010. The Department contends that the Defendant has committed an Intentional Program Violation (IPV) and made a fraudulent statement or misrepresentation regarding her household composition in order to receive SNAP (formerly known as the Food Stamp Program), and is recommending that the Defendant be disqualified from participation in SNAP for a period of one (1) year. Specifically, the Department contends that the Defendant withheld information that the father of her children, -----, was living in her household. As a result, his income was never considered in determining eligibility for SNAP.

- 2) Notification of the September 28, 2010 hearing was mailed to the Defendant on or about August 24, 2010 via first class mail delivery, as the Defendant has a validated address with the Department and is actively receiving benefits at that address.
- 3) The hearing was convened as scheduled at 1:00 p.m., and as of 1:19 p.m. the Defendant failed to appear or notify the Board of Review of any conflict preventing her from appearing. As set forth in the Code of Federal Regulations found at §7 CFR 273.16 (e) (4), and State Policy (West Virginia Department of Health and Human Resources Common Chapters Manual, Chapter 740.20), the hearing was conducted without the Defendant in attendance.
- 4) On or about August 11, 2010 the Department sent the Defendant a Notification of Intent to Disqualify (D-16) form, indicating that it had reason to believe she intentionally violated a food stamp rule. The form also included the following:

Based on the evidence developed through our investigation, the agency believes that ----- intentionally violated the food stamp program by: failing to report the father of the children was living in the home and his income. The evidence to prove this allegation consists of: comments from OSCAR and child support.

- 5) The Department presented evidence (D-4) to show that the Defendant completed an application for SNAP on January 28, 2010. She did not report -----lived in her household and did not report his income. She signed the application and Rights and Responsibilities form indicating she understood her responsibility to report accurate and truthful information and the penalties for failure to do so.
- 6) Additional evidence (D-5) shows that the Department's child support unit verified both the Defendant's and -----addresses and that the verification suggested that they live together. The child support unit, on March 10, 2010, issued a communication form (D-6) to the income maintenance unit which included the following pertinent information:

BCSE (Bureau for Child Support Enforcement) has information that would indicate that -----is living in the household with CP (caretaker parent) & children. Please review & make necessary changes to the RAPIDS case. Thank you!

- 7) On March 16, 2010, the Department added (D-7, D-9) -----to the Defendant's SNAP case, and requested that the Defendant provide for income verification for Mr. ----- . This evidence shows that the Department recorded in case comments on March 16, 2010 that after the Defendant came into the local office and claimed that -----did not live with her, she was

instructed by the worker to bring in letters verifying her household composition. The Department's case comments (D-10) show that on March 19, 2010 the Defendant brought in ---pay stubs from his employment, and reported that she was unable to obtain letters from neighbors and her landlord because they were out of town. The Department contends that the Defendant's act of supplying -----pay stubs within three days of its request supports that they do live together.

- 8) The Department's evidence (D-8) shows that the Defendant applied for emergency LIEAP in March 11, 2010 and did not report that ----lived in her home. She also did not report his income. She signed the form indicating she understood her responsibility to report accurate and truthful information and the penalties for failure to do so. The recorded case comments for this date (D-8) also include the following pertinent information:

----- in office for ELIEAP (emergency low income energy assistance program). She stated that the AP (absent parent) is currently giving her 200 per month...she stated I could call him, but when she gave me the number and I called it was her phone. The child also stated that daddy is in the hh (household).

- 9) West Virginia Income Maintenance Manual §1.2 (E) states that it is the client's responsibility to provide information about his circumstances so the worker is able to make a correct decision about his eligibility.

- 10) West Virginia Income Maintenance Manual § 20.2 (C) (2) states in pertinent part:

IPV's include making false or misleading statement, 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.

The individual(s) who is found to have committed an IPV is ineligible to participate in the program for a specified time, depending on the number of offenses committed.

Once an IPV is established, a disqualification penalty is imposed on the AG member(s) who committed the IPV.

- 11) Common Chapters Manual 700, Appendix A, Section B, 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.
- 12) Common Chapters Manual 700, Appendix A, Section G, states that the State Hearing Officer shall base the determination of Intentional Program Violation on clear and convincing evidence

which demonstrates that the household member(s) committed, and intended to commit, an Intentional Program Violation as defined in Section B of this Appendix.

- 13) The Defendant signed numerous Rights and Responsibilities forms (D-6, D-9) thereby acknowledging the following pertinent responsibilities:

4) I understand if I am found (by court action or an 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.

48) I also understand that if I give incorrect or false information or if I fail to report changes that I am required to report, I may be required to repay any benefits I receive and I may also be prosecuted for fraud. I also understand that any person who obtains or attempts to obtain benefits from DHHR by means of a willfully false statement or misrepresentation or by impersonation or any other fraudulent device can be charged with fraud.

49) I certify that all statements on this form have been read by me or read to me and that I understand them. I certify that all the information I have given is true and correct and I accept these responsibilities.

- 14) West Virginia Income Maintenance Manual §9.1.A.2.h states:

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

VIII. CONCLUSIONS OF LAW:

- 1) The policy and regulations that govern the Food Stamp program state that a Food Stamp 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 Defendant clearly was aware of her responsibility to report accurate and truthful information and the penalties involved for failure to do so. She signed applications and Rights and Responsibilities forms during the period in question which clearly informed her of this responsibility.

- 4) The evidence shows that the Defendant intentionally reported false information about her household composition on numerous occasions in order to receive SNAP. She completed a SNAP application on January 28, 2010, and numerous other applications on March 11, 2010. The Department's recorded case comments on March 11, 2010 clearly show she reported that her husband did not live with her, while her child reported otherwise. She provided a telephone number for -----to be reached, which turned out to be her own telephone number. The Department verified that both the Defendant and -----utilize the same address. In addition, she provided -----pay stub information within three (3) days of it being requested, which supports that she has easy access to his personal information.
- 5) The evidence is found to show that the Department was correct in its determination that the Defendant has committed an Intentional Program Violation by intentionally withholding information about her household composition.

IX. DECISION:

The Agency's proposal to apply a one (1) year Food Stamp disqualification penalty is **upheld**. The penalty will begin November 1, 2010.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 29th Day of September, 2010.

**Cheryl Henson
State Hearing Officer**