



**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**

February 2, 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 6, 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 March 1, 2010.

Sincerely,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review
Christine Allen, Repayment Investigator

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

-----,

Defendant,

v.

Action Number: 09-BOR-1826

**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 February 2, 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 6, 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:

-----, Defendant
Christine Allen, 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 Administrative Disqualification Hearing Summary.
- D-2 ES-FS-5, SNAP Claim Determination sheet.
- D-3 IQFS, Screen print from RAPIDS System showing SNAP issuance history.
- D-4 EFAD Screen print from RAPIDS System showing SNAP allotment determination for each month of SNAP benefits received by Defendant.
- D-5 AQCM Screen print from RAPIDS System showing case member history.
- D-6 BVRF Screen print from RAPIDS System showing referral for recoupment.
- D-7 Copy of IFM-1 (Fraud Referral Form) signed by caseworker.
- D-8 Copy of WV DHHR receipt showing EBT card for ----- was received from Defendant.
- D-9 Copy of statement signed by Defendant admitting she bought -----EBT card for \$30.00.
- D-10 Copy of statement signed by -----stating she witnessed ----- sell his EBT card to Defendant for \$30.00.
- D-11 Copy of combined application and review form signed by Defendant.
- D-12 Copy of Rights and Responsibilities form signed by Defendant showing statement #1 was checked acknowledging Defendant understood that SNAP benefits cannot be sold and she cannot use someone else's benefits for herself.
- D-13 Copy of IFM-let-sus, an appointment letter sent to Defendant from the repayment investigator asking Defendant to come into the [REDACTED] County office of the WV DHHR to discuss the situation.
- D-14 IG-BR-44, Waiver of Administrative Disqualification Hearing (ADH) signed by Defendant on May 13, 2009, requesting the hearing.
- D-15 Copy of IFM-BR-44, Waiver of Administrative Disqualification Hearing form, and IFM-BR-44a, Notice of Intent to Disqualify form sent to Defendant.
- D-16 Copy of Income Maintenance Manual Chapter 1.2.E showing customer responsibility for providing accurate information.
- D-17 Copy of Income Maintenance Manual Chapter 14.1 showing SNAP benefits are to be used in grocery stores or other establishments that are authorized by the U.S. Department of Agriculture (USDA) to accept them.
- D-18 Copy of Income Maintenance Manual Chapter 20.1 and 20.2 showing SNAP benefit claims and repayment procedures.
- D-19 Copy of the Code of Federal Regulations (CFR) §273.16 showing disqualifications for Intentional Program Violations.

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 she allegedly purchased an Electronic Benefits Transfer (EBT) card from another SNAP benefits recipient.
- 2) On May 6, 2009, Amy Goodman, a WV DHHR worker at the [REDACTED] County office in [REDACTED] WV, completed and signed an IFM-1 (fraud referral form) which stated in part, "[Defendant] came into the office on 5-6-09 to report she purchased an EBT card from ----- for \$30. [Defendant] stated ----- told her there was \$35 on EBT card . . ." (Exhibit D-7.) Worker Goodman and office financial clerk -----issued a receipt to Defendant. (Exhibit D-8.)
- 3) On May 13, 2009, Repayments Investigator Ms. Allen conducted an investigation of the matter at the [REDACTED] County office. She interviewed Defendant at that time and recorded Defendant's statement on form IFM-STAT-3. (Exhibit D-9.) On this statement, the investigator recorded Defendant's statement, which states in part, "On about 5/1/09, ----- came to my home . . . My daughter -----and myself were the only ones there. ----- asked me if I had any [prescription medications] he could trade his food stamps for. I told him my pills were for myself. Then he asked if I had any money he could trade. I told him I had \$30. He said I could have \$35 off his card. I gave him \$30 . . ." Defendant signed the statement.
- 4) On May 13, 2009, Ms. Allen also interviewed Defendant's daughter, and recorded her statement on another form IFM-STAT-3. Defendant's daughter's statement reads in part, "I heard him [-----] ask my Mom if she had any [prescription medications] he could trade his card for. My Mom said she didn't have that kind of medicine and her medicine was for herself. That's when he started asking for money and Mom said she had \$30. ----- said she could have \$35 off his card . . . My Mom handed him \$30 and my Mom asked for the card and the PIN . . ." Defendant's daughter signed the statement.
- 5) The Code of Federal Regulations, 7 CFR §273.16(c), defines an 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).
- 6) 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

VIII. CONCLUSIONS OF LAW:

The Department clearly established that the Defendant attempted to purchase SNAP benefits for which she would not have otherwise been entitled. Both the Defendant and her daughter signed statements to the effect that she purchased an EBT card from another SNAP recipient.

IX. DECISION:

Purchasing an EBT card from another SNAP recipient constitutes SNAP benefit trafficking and 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 the Food Stamp program, or SNAP, for a period of twelve (12) months to begin effective March 1, 2010.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 2nd Day of February, 2010.

Stephen M. Baisden
State Hearing Officer