



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

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

**Joe Manchin III
Governor**

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

November 15, 2010

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 November 3, 2010. The purpose of this hearing was to determine whether or not you intentionally 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 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 which was submitted at your hearing revealed that you intentionally withheld information concerning your household's income in order to receive benefits for which you were not entitled.

It is the decision of the State Hearing Officer to Uphold the proposal of the Department to implement a 12 month Intentional Program Violation against you.

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-1865

**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 a fair 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 November 3, 2010.

It should be noted that this hearing was originally scheduled for October 7, 2010 and was rescheduled based on the Department's request.

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
Lori Woodward, Repayment Investigator

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
West Virginia Income Maintenance Manual, Chapter 20.2; Chapter 9.1.A.2.h

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 West Virginia Department of Health and Human Resources Request for Assistance dated December 4, 2009
- D-2 Combined Application and Review Form with associated Rights and Responsibilities
- D-3 Notice of Decision dated December 8, 2009
- D-4 Computer printout of the Department's data exchange inquiry with the Social Security Administration
- D-5 Food Stamp Claim Determination Worksheet
- D-6 Notification of Intent to Disqualify
- D-7 West Virginia Income Maintenance Manual Chapter 1.2, 1.4, 2.2, 9.1
- D-8 West Virginia Income Maintenance Manual Chapter 20.2, Common Chapters 740.11

VII. FINDINGS OF FACT:

- 1) The Board of Review received a request for an Administrative Disqualification Hearing on September 7, 2010. 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) This Administrative Disqualification Hearing was originally scheduled for October 7, 2010 and was rescheduled to November 3, 2010 based on the Department's request.
- 3) On July 19, 2010, the Department issued the Defendant Exhibit D-6, Notification of Intent to Disqualify, indicating that the Department had reason to believe the Defendant intentionally violated a food stamp rule. This exhibit documents in pertinent part:

Based on the evidence developed through our investigation, the agency believes that ----- intentionally violated the food stamp program by withholding unearned income information at application.

- 4) Lori Woodward, Repayment Investigator testified that on December 4, 2009, the Defendant initiated an application for SNAP benefits by completing Exhibit D-1, West Virginia Department of Health and Human Resources Request for Assistance. The Defendant reported

on such documentation that her household's monthly income was \$600.00 before any deductions.

- 5) On December 7, 2009, the Defendant completed a face-to-face interview with the Department and completed Exhibit D-2, Combined Application and Review Form. On her application, the Defendant reported that her household consisted of herself and her two children. The Defendant reported her only income source was from her employment at Texas Steakhouse. The Defendant completed the Rights and Responsibilities section of the application, specifically acknowledging question #47 which states:

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.

- 6) On December 8, 2009, the Department issued the Defendant Exhibit D-3, Notice of Decision informing her that her SNAP application dated December 4, 2009 had been approved in the amount of \$409.00 per month.
- 7) On March 29, 2010, the Defendant completed a recertification for her SNAP assistance. The Economic Service Worker assisting with the recertification completed a data exchange inquiry with the Social Security Administration (SSA). Exhibit D-4, Computer printout of data exchange inquiry with the Social Security Administration, documents that the Defendant's son had been receiving SSA benefits since December 2002. Additionally, this exhibit documented a December 2009 monthly benefit of \$291.00.
- 8) Ms. Woodward presented Exhibit D-5, Food Stamp Claim Determination Worksheet to establish that by withholding information concerning her son's income, the Defendant was issued an overpayment of SNAP assistance in the amount of \$1074.00 for the months of December 2009 through May 2010.
- 9) The Defendant stated that she did not intentionally withhold information concerning her son's income from the Department. The Defendant stated that she reported information concerning her son's SSA benefits to the front desk of the Department, in which the worker made note of the information and placed it with her request. The Defendant stated that when she was asked about her income, she did not indicate her son's income as she believed the Department was referring to her employment income.
- 10) 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.

- 11) West Virginia Income Maintenance Manual, Chapter 9.1 indicates:

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

- 1st Offense: 1 Year
- 2nd Offense: 2 Years
- 3rd Offense: Permanent

12) Common Chapters Manual 740.11.D states as follows:

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 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 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.

13) 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, an 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) Evidence presented during the Administrative Disqualification Hearing is clear that the Defendant failed to report her child's Social Security Administration income at the time of the

SNAP application. While the Defendant maintains that such information was submitted, she provided no evidence to the contrary. The evidence is clear that such income was made available to the household seven years prior to the SNAP application and that the household continued to receive such income at the time of application. As the Defendant withheld such information concerning income available to the household, an overpayment of SNAP benefits was issued in which the household was ineligible to receive.

- 4) 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 offense is one (1) year.
- 5) The Defendant is the only assistance group member subject to said disqualification penalty. The one year disqualification penalty will begin December 1, 210 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 November 2010.

**Eric L. Phillips
State Hearing Officer**