



**State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
2699 Park Avenue, Suite 100  
Huntington, WV 25704**

**Joe Manchin III  
Governor**

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

April 27, 2010

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on the SNAP Administrative Disqualification Hearing held March 4, 2010, 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 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, formerly known as the Food Stamp Program, 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, Chapter 20.2; 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 June 1, 2010.

Sincerely,

Todd Thornton  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Marshall Daniels, Repayment Investigator

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

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**Defendant,**

**v.**

**Action Number: 09-BOR-2188**

**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 concluded on April 27, 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. This hearing was convened on March 4, 2010.

**II. PROGRAM PURPOSE:**

The purpose of 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:**

Marshall Daniels, Repayment Investigator

Presiding at the Hearing was Todd Thornton, 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:**

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 Income verification

D-2 Combined Application and Review Form, dated January 29, 2008; Rights and Responsibilities form, dated January 29, 2008

D-3 Combined Application and Review Form, dated July 25, 2008; Rights and Responsibilities form, dated July 25, 2008

D-4 Application For West Virginia School Clothing Allowance, dated July 25, 2008

D-5 Combined Application and Review Form, dated January 29, 2009; Rights and Responsibilities form, dated January 29, 2009

D-6 West Virginia Income Maintenance Manual, Chapter 20.2

D-7 West Virginia Income Maintenance Manual, Chapter 20.2

D-8 West Virginia Income Maintenance Manual, Chapter 9.1

It should be noted that a ninth exhibit was submitted by the Department, subsequent to the hearing, and was not accepted due to evidence submission deadlines.

**VII. FINDINGS OF FACT:**

- 1) The Department is alleging an act of Intentional Program Violation, or IPV, in the Defendant's case, due to income not reported from her employment. This income was allegedly not reported during multiple applications or reviews of eligibility for SNAP, formerly known as the Food Stamp Program.
- 2) The hearing convened as scheduled at 2:00 p.m., and as of 2:15 p.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 was conducted without the Defendant in attendance. The Defendant responded to this State Hearing Officer to request a new hearing, and that request was denied due to lack of good cause, in a separate order entered March 26, 2010.

- 3) 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).
- 4) The Department presented the Combined Application and Review forms and Rights and Responsibilities forms (Exhibits D-2, D-3, and D-5) from SNAP eligibility interviews completed on January 29, 2008, July 25, 2008, and January 29, 2009, respectively. The Department additionally presented the Defendant's July 25, 2008 application (Exhibit D-4) for West Virginia School Clothing Allowance; this application, although not for SNAP, relays eligibility information to the Defendant's ongoing SNAP case. All forms were signed by the Defendant, and all forms omitted any source of earned income, although they listed Social Security income in the household.
- 5) The Department presented income verification (Exhibit D-1) showing the Defendant's employment and earned income in 2007, 2008, and 2009.
- 6) Marshall Daniels, representative for the Department's Investigations and Fraud Management unit, testified that because the Defendant did not report her earned income, a SNAP overissuance of \$2671.00 occurred in the period from February 2008 through July 2009. Mr. Daniels additionally testified that the Defendant has no prior IPV offenses.
- 7) 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:**

- 1) The Department clearly established that the Defendant did not report her earned income from employment during multiple SNAP eligibility interviews. The Defendant's actions resulted in a SNAP overissuance totaling \$2671.00.
- 2) The Department also clearly established the intent of the Defendant to provide misleading information to receive SNAP benefits for which she would not have otherwise been entitled. The Defendant reported the unearned income of her daughter, but withheld reporting her own earned income on four separate occasions. The Department was correct in its determination that an IPV was committed by the Defendant.

## **IX. DECISION:**

Intentionally withholding, concealing, or providing misleading facts to secure SNAP benefits constitutes 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 for a period of twelve (12) months to begin effective June 1, 2010.

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

See Attachment

## **XI. ATTACHMENTS:**

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_ Day of April, 2010.**

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**Todd Thornton**  
**State Hearing Officer**