



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

**Joe Manchin III
Governor**

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

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

January 25, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your Supplemental Nutrition Assistance Program (SNAP) Administration Disqualification hearing held January 21, 2010. The purpose of this hearing was to determine whether or not you intentionally 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 the Supplemental Nutrition Assistance Program is based on current policy and regulations. These regulations provide that an 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 which was submitted at your hearing revealed that you intentionally withheld information about your son's residence in order to receive benefits for which you were not entitled.

It is the decision of the State Hearing Officer to Uphold the agency's proposal to implement a one (1) year SNAP penalty against you based on an Intentional Program Violation. Your penalty period will begin March 1, 2010 and continue for the next twelve (12) months.

Sincerely,

Eric Phillips
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Lori Woodward, RI

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

-----,

Defendant,

v.

Action Number: 09-BOR-2404

**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 concluded on January 25, 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 fair hearing was convened on January 21, 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:

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:

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 West Virginia Department of Health and Human Resources Application for Low Income Energy Assistance Program (LIEAP) dated May 12, 2009
- D-2 Computer Printout from RAPIDS system indicating school enrollment
- D-3 Combined Application and Review form with associated case comments dated May 14, 2009
- D-4 Approval Notice of Benefits dated May 26, 2009
- D-5 Computer printout with corresponding notes from Sally Musick, Repayment Investigator
- D-6 Letter from -----, Department of Pupil Services, [REDACTED] County Schools
- D-7 Food Stamp Claim Determination for May 2009-October 2009
- D-8 Notification of Intent to Disqualify dated November 4, 2009
- D-9 West Virginia Income Maintenance Manual Chapter 1.2, 2.2, 9.1
- D-10 West Virginia Income Maintenance Manual Chapter 20.2 and Common Chapters 740.10-740.11

VII. FINDINGS OF FACT:

- 1) The Board of Review received a request for an Administration Disqualification Hearing on December 21, 2009. 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) Notice of scheduled hearing was mailed to the Defendant on December 21, 2009 via first class mail and was not returned to the Board of Review by the United States Postal Service.
- 3) The hearing convened as scheduled at 2:00 p.m. on the requested date, as of 2:15 p.m., the Defendant failed to appear. 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 May 13, 2009, the Defendant applied for the Low Income Energy Assistance Program (LIEAP). Exhibit D-1, Application for Low Income Energy Assistance Program (LIEAP) documents that at the time of application the Claimant listed herself and her son [REDACTED] as residing in the same household.
- 5) On May 14, 2009, the Defendant applied for Supplemental Nutrition Assistance Program benefits. Andrew LaCara, Economic Service Worker conducted the application for benefits with the Defendant using Exhibit D-3, Combined Application and Review Form. During the

application, the Defendant reported that her child resided with her in the same residence and that he was enrolled in [REDACTED] Elementary School (Exhibit D-2). Lori Woodward, Repayment Investigator, testified that the original documents for Exhibit D-3 could not be located and a reprint of the form was provided during testimony. Ms. Woodward supplied Mr. Lacara's case comment report from the date of application that indicated that the Defendant completed and signed the original along with all Rights and Responsibilities acknowledging her understanding of the acts and penalties associated with an intentional program violation. Additionally, Mr. Lacara documented in his case comment report that the Claimant reported that she shared non-court ordered custody of the child and indicated during the application that the child primarily resides at her residence. On May 26, 2010, the Claimant received Exhibit D-4, Approval Notice of Benefits informing her of the approval of her SNAP application.

- 6) Ms. Woodward testified that in September 2009 the Department was notified by a Repayment Investigator in the State of [REDACTED] that the Claimant's child was receiving benefits in the State of [REDACTED]. Sally Musick, a prior Repayment Investigator that was assigned to the Claimant's claim indicated in Exhibit D-5, Computer printout with corresponding notes, that the Claimant's son was residing in [REDACTED] and had been receiving benefits with his grandparents from September 2007 through September 2009. Additionally, the Repayment Investigator contacted -----, Director of Department of Pupil Services for [REDACTED] County Schools, to determine if the Claimant's child had been enrolled in [REDACTED] County Schools. Exhibit D-6, Letter from -----, documents that "-----, Birth Date 4/27/2000 has never been enrolled in [REDACTED] County Schools. Additionally, Ms. Woodward testified that [REDACTED] Elementary, the school that was reported to the Economic Service Worker at that time of application, does not exist in the [REDACTED] County School system.
- 7) The Department submitted Exhibit D-7, Food Stamp Claim Determination, to establish that the Defendants inability to provide true and correct information at the application resulted in an overpayment of Nine Hundred and Eighty Two (\$982.00) dollars for the period of May 22, 2009 through October 2009.
- 8) 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.
- 9) West Virginia Income Maintenance Manual Chapter 9.1 A(1) indicates:

The SNAP AG [assistance group] must include all eligible individuals who both live together and purchase and prepare their meals together.

When an individual, who is included in an AG, is absent or is expected to be absent from the home for a full calendar month, he is no longer eligible to be included in the AG, and must be removed after proper notice.

- 10) West Virginia Income Maintenance Manual Chapter 2.2 indicates:

All SNAP AG's must report changes related to eligibility and benefit amount at application and redetermination.

- 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) West Virginia Income Maintenance Manual, Chapter 20.2 indicates:

When an AG (benefit group) has been issued more Food Stamps than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation or Intentional Program Violation claim. The claim is the difference between the allotment the client received and the allotment he should have received.

- 13) 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.

VIII. CONCLUSIONS OF LAW:

- 1) Based on evidence presented during the Administration Disqualification Hearing, the Defendant provided inaccurate information regarding her household composition to the Department in order to receive Supplemental Nutritional Assistance Program benefits for which she was not legally entitled. The Defendant applied for benefits with the Department on two occasions in May 2009 and reported a household composition of herself and her son.

Information submitted to the Department revealed that the Claimant son has been residing with his grandparents in the State of [REDACTED] from September 2007 through September 2009 and has never resided or attended school in the State of West Virginia. The Defendant, in an attempt to secure benefits, withheld information concerning the household's composition. This was clearly an intentional misrepresentation of the Defendant's current living situation.

- 2) 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.
- 3) There is clear and convincing evidence that the Defendant committed an intentional program violation as defined in the SNAP policy and regulations.
- 4) In accordance with Food Stamp policy and regulations, an Intentional Program Violation has been committed and a disqualification penalty must be applied. The disqualification for a first (1st) offense is one (1) year.
- 5) The Defendant is the only assistance group member subject to said disqualification penalty. This one year disqualification penalty will begin March 2010 and run concurrently for the next twelve (12) months.

IX. DECISION:

Intentionally making a false or misleading statements or misrepresenting facts to secure SNAP benefits constitutes a clear violation of the regulations. Based on evidence presented, I find the violation intentional.

The Departments 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 January 2010.

Eric L. Phillips
State Hearing Officer