



**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**

February 22, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your Supplemental Nutritional Assistance Program (SNAP) Administration Disqualification hearing held February 18, 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 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 concerning your household composition 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 of the Department to implement a one (1) year SNAP penalty against you based on an Intentional Program Violation. Your penalty period will begin April 1, 2010 and continue for the next twelve (12) months.

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-583

**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 February 22, 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 February 18, 2010.

II. PROGRAM PURPOSE:

The Program entitled Supplemental Nutrition Assistance Program is administered by the West Virginia Department of Health & Human Resources. 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, RI

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 Combined Application and Review Form dated September 17, 2009
- D-2 Approval Notice dated September 18, 2009
- D-3 Combined Application and Review Form dated September 30, 2009
- D-4 Identity Declaration signed September 30, 2009
- D-5 Approval Notice dated October 1, 2009
- D-6 Facsimile from -----, Assistant Principal ----- High School
- D-7a Food Stamp Claim Determination Worksheet
- D-7b Cash Assistance Claim Determination Worksheet
- D-8 Notification of Intent to Disqualify
- 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 740.11

VII. FINDINGS OF FACT:

- 1) The Board of Review received a request for an Administration Disqualification Hearing on January 11, 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) Notice of scheduled hearing was mailed to the Defendant on January 12, 2010 via Certified Restricted Delivery mail. Notice was received that the Defendant received notice on January 19, 2010.
- 3) The hearing was convened as scheduled at 1:00 P.M., on the requested date, as of 1:15 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 September 17, 2009, the Defendant applied for SNAP benefits, children's medical assistance, and submitted a screening evaluation for the WV WORKS cash assistance program. Exhibit D-1, Combined Application and Review Form, documents that the Defendant reported a household composition of herself and child. Additionally, the Defendant reported no income available to the household as part of her application for benefits. The Defendant reported her son to be a student at ----- High School attending the 11th grade. Exhibit D-2, Approval Notice dated September 18, 2009, documents that the Defendant was approved for expedited prorated benefits for the month of September.

- 5) On September 30, 2009, the Defendant applied for WV WORKS cash assistance. Exhibit D-3, Combined Application and Review Form, indicates that the Defendant did not report any changes in her circumstances regarding household composition or income. The Defendant stated during the application that her son did not have school identification and declared his identity using Exhibit D-4, Identity Declaration. The Defendant's application for cash assistance was approved on October 1, 2009 (Exhibit D-5).
- 6) As part of both applications for assistance, the Defendant completed the Rights and Responsibilities portion that certified that all information relayed to the Department at the time of application is true and correct and the applicant accepts all responsibilities associated with the application for SNAP benefits. The Defendant's signature appears on page 9 of documentation affirming her knowledge of all responsibilities related to his receipt of Departmental benefits. (Exhibit D-1 and Exhibit D-3). The Defendant marked "yes" to question #4 on the Food Stamp Program section of the form indicating the following:

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 Food Stamp benefits as follows: **First Offense-** one year; **Second Offense** – two years; **Third Offense** – permanently. In addition, I will have to repay any benefits received for which I was not eligible.

By signing this documentation the Defendant affirmed that she read all statements and any information she purported to the Department at the time of application was true and correct.

- 7) Lori Woodward, Repayment Investigator testified that the Department received a phone call from an anonymous third party source, relating information that the Defendant's son, -----, had been residing in [REDACTED] and never resided with his mother in West Virginia during the period for which benefits were established. Additional information from the source indicated that the Defendant moved to [REDACTED]. The Defendant's benefits were subsequently terminated based on the reported information and verification was obtained from ----- High School that ----- was never enrolled with the [REDACTED] County school system. Exhibit D-6, Facsimile from -----, Assistant Principal, ----- High School documents that, "----- is **not** [emphasis added] a student at ----- High for the 09-10 school year."
- 8) The Department submitted Exhibit D-7a, Food Stamp Claim Determination Worksheet and Exhibit D-7b, Cash Assistance Claim Determination Worksheet, to establish that the Defendant's false information regarding household composition provided to the Department in the process to determine her eligibility for benefits resulted in an overpayment of Four Hundred Twelve Dollars (412.00) for the period of September 2009 through November 2009. Furthermore, the misleading information resulted in an overpayment of Seven Hundred and Forty Two dollars in cash assistance for the periods of September 2009 through November 2009.

- 9) 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.

- 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 false statements regarding household composition to the Department in order to receive Supplemental Nutrition Assistance Program benefits for which she was not legally entitled. At her application for benefits, the Defendant indicated that her son was a member of the household and enrolled in West Virginia Schools, when he had in fact never been enrolled with the school system or resided in West Virginia during the established period of benefits.
- 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 the first (1st) 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 April 1, 2010 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 Departments proposal to apply a twelve (12) month disqualification and subsequent repayment of benefits 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 February 2010.

**Eric L. Phillips
State Hearing Officer**