



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 Washington Street, West
Charleston, WV 25313

Joe Manchin III
Governor

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

March 11, 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 (ADH) held March 2, 2010 for the purpose of determining whether or not you 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 SNAP 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 §20.2 and Code of Federal Regulations - 7 CFR §273.16).

The information submitted at the hearing showed that you intentionally withheld information about your household's composition in order to receive SNAP for which you were not entitled.

It is the decision of the State Hearing Officer to **uphold** the Agency's proposal to apply a one (1) year SNAP disqualification penalty against you based on an Intentional Program Violation. Your penalty begins May 1, 2010.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review/Natasha Jemerison, Kanawha DHHR

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

-----,

Defendant

v.

Action Number: 10-BOR-638

**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 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 2, 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:

Natasha Jemerison, State Repayment Investigator, Department Representative

Presiding at the Hearing was Cheryl Henson, State Hearing Officer and a member of the State Board of Review.

The record shall reflect that the Defendant was notified of this hearing by first class mail delivery on or about January 19, 2010. The hearing was scheduled to begin on March 2, 2010

at 11:00 A.M., and at 11:17 A.M. that same day she failed to appear. The hearing was held in her absence.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Defendant committed an intentional program violation and should be disqualified for one year from participation in 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 Benefit Recovery Referral Screen from RAPIDS computer system dated 10/27/09
- D-2 WV Income Maintenance Manual §1.2.E
- D-3 Food Stamp Claim Determination forms
- D-4 Code of Federal Regulations §7CFR273.16
- D-5 OFS-2 Application/Redetermination form dated February 27, 2008 and March 10, 2008
- D-6 Rights and Responsibilities form signed February 27, 2008 and March 10, 2008
- D-7 Case Comments from RAPIDS computer system dated April 2008
- D-8 WV Children's Health Insurance Program application dated June 24, 2008
- D-9 WV Children's Health Insurance Program application signed July 9, 2008
- D-10 DFA-WVSC-1 Application for School Clothing Allowance form dated signed 7-9-08
- D-11 Combined Application Form (CAF) application for SNAP dated 9-9-08
- D-12 Rights and Responsibilities form signed 9-9-08
- D-13 Case Comments dated March 2009 and information from [REDACTED] Apartments
- D-14 WV Income Maintenance Manual Section 2.2.B
- D-15 WV Income Maintenance Manual Section 20.6
- D-16 Notification letters dated November 3, 2009
- D-17 SNAP Issuance History screens from RAPIDS computer system

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing (ADH) was received by the Board of Review from the Department of Health and Human Resources (Department) on January 14, 2010. The Department contends that the Defendant has committed an Intentional Program

Violation (IPV) and made a fraudulent statement or misrepresentation regarding her household composition in order to receive SNAP (formerly known as the Food Stamp Program), and is recommending that the Defendant be disqualified from participation in SNAP for a period of one (1) year.

- 2) On or about November 3, 2009 the Department sent the Defendant a Notification of Intent to Disqualify (D-16) form, indicating that the Department had reason to believe she intentionally violated a food stamp rule. The form also included the following:

Based on the evidence developed through our investigation, the agency believes that ----- intentionally violated the food stamp program by: not adding -----to her case. The evidence to prove this allegation consists of applications, statements from apartment managers, income.

- 3) The Department presented evidence to show that the Defendant completed a hand written application form (D-5) on March 10, 2008 and reported four individuals living in her household. She reported herself and three children. She reported no earned income. She reported unearned income in the form of child support from ----- . She reported that she is obligated to pay rent and utilities. She signed the application as well as the Rights and Responsibilities form (D-6) indicating she understood her responsibility to report accurate and truthful information and the penalties for failure to do so.
- 4) The Defendant placed a telephone call on April 14, 2008 (D-7) and informed the Department that her address changed. She reported living at the same apartment complex but a different building. She reported no other changes.
- 5) The Defendant submitted a Children's Health and Insurance Program (CHIP) application to the Department on June 24, 2008 reporting her and three children as the only individuals living in her household. She reported that -----pays her child support in the amount of two hundred fifty dollars (\$250.00) per month.
- 6) The Defendant submitted another CHIP application dated July 8, 2008 again listing her and three children as the only individuals in the household. She again reported that -----pays her child support.
- 7) The Defendant submitted a school clothing allowance application (D-10) to the Department on July 11, 2008. She reported the same individuals in the home and that -----pays her child support.
- 8) The Defendant completed a Combined Application Form (CAF) application (D-11) September 9, 2008 again listing herself as the only adult in the home, and her three children. She reported receiving child support from -----but again did not list him as living in her home. She signed the rights and Responsibilities form (D-12) again indicating she understood her responsibilities to report accurate and truthful information and the penalties for failure to do so.
- 9) Case comments from the RAPIDS computer system (D-13) show the Department's Front End Fraud Unit (FEFU) determined on or about December 15, 2008 that -----lives with the Defendant. The Department provided evidence (D-13) that shows the Defendant's landlord sent her a letter on November 17, 2008 indicating he believed that an adult visitor was living

with her in her apartment. The evidence (D-13) also shows that -----claimed one of the Defendant's children as a dependent on his 2007 federal tax return.

- 10) The Department's evidence (D-17) includes case comments from the RAPIDS computer system which shows the worker documented on April 6, 2009 that the Defendant reported that -----was "no longer" living in her household.
- 11) Natasha Jemerison, an investigator for the Department, testified that although she felt the Defendant was overpaid for a longer timeframe, she agreed to reduce the overpayment timeframe to the period of May 1, 2008 through December 31, 2008 because the evidence was very strong for that time period that -----lived with the Defendant. She added that the Defendant did not dispute this claim during that time frame. She added that she interviewed the Defendant during December 2009 and offered that the Defendant admitted she and -----were trying to "work things out" for the period of May 1, 2008 through December 31, 2008. --- --was never added to her apartment rental lease.
- 12) West Virginia Income Maintenance Manual §1.2 (E) states that it is the client's responsibility to provide information about his circumstances so the worker is able to make a correct decision about his eligibility.
- 13) West Virginia Income Maintenance Manual § 20.2 (C) (2) states in pertinent part:

IPV's include making false or misleading statement, misrepresentations, concealing or withholding information, and committing any act that violates the Food Stamp Act of 1977, Food Stamp regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of Food Stamps.

The individual(s) who is found to have committed an IPV is ineligible to participate in the program for a specified time, depending on the number of offenses committed.

Once an IPV is established, a disqualification penalty is imposed on the AG member(s) who committed the IPV.

- 14) Common Chapters Manual 700, Appendix A, Section B, provides 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 benefits.
- 15) Common Chapters Manual 700, Appendix A, Section G, states that the State Hearing Officer shall base the determination of Intentional Program Violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, an Intentional Program Violation as defined in Section B of this Appendix.
- 16) The evidence shows the Defendant signed numerous Rights and Responsibilities forms thereby acknowledging the following pertinent responsibilities:

4) 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 SNAP benefits as follows: First Offense – one year; Second Offense – two years; Third Offense – permanently.

48) I also understand that if I give incorrect or false information or if I fail to report changes that I am required to report, I may be required to repay any benefits I receive and I may also be prosecuted for fraud. I also understand that any person who obtains or attempts to obtain benefits from DHHR by means of a willfully false statement or misrepresentation or by impersonation or any other fraudulent device can be charged with fraud.

49) 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.

17) West Virginia Income Maintenance Manual §9.1.A.2.h states:

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 policy and regulations that govern the Food Stamp program state that a Food Stamp 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) The Defendant clearly was aware of her responsibility to report accurate information and the penalties involved. She signed numerous Rights and Responsibilities forms acknowledging her understanding of these responsibilities.
- 4) The evidence shows that the Defendant intentionally withheld information about her household composition on numerous occasions in order to receive SNAP. The evidence is clear and convincing that from May 1, 2008 through December 31, 2008 -----lived in the Defendant's household.

- 5) The Department was correct in its determination that the Defendant has committed an Intentional Program Violation by intentionally reporting false information about her household composition.

IX. DECISION:

The Agency's proposal to apply a one (1) year Food Stamp disqualification penalty is **upheld**. The penalty will begin May 1, 2010.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 11th Day of March, 2010.

**Cheryl Henson
State Hearing Officer**