



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 19, 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 Nutritional 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 Violations 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 income 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 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-651

**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 19, 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 purpose of the Supplemental Nutritional 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 Combined Application and Review Form dated October 19, 2009
- D-2 Approval Notice dated October 20, 2009
- D-3 Computer printout of Case Comments from RAPIDS Computer system dated November 3, 2009
- D-4 Computer printout of Unemployment Compensation Details
- D-5 Food Stamp Claim Determination Worksheet
- D-6 Notification of Intent to Disqualify dated December 14, 2009
- 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 and Common Chapters Manual 740.10-740.11

VII. FINDINGS OF FACT:

- 1) The Board of Review received a request for an Administration Disqualification Hearing on January 15, 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 20, 2010 via first class mail and was not returned to the Board of Review by the United States Postal Service.
- 3) The hearing was convened as scheduled at 11:00 A.M., on the requested date, as of 11:15 A.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 October 19, 2009, the Defendant applied for SNAP benefits. Exhibit, D-1, Combined Application and Review Form, documents that the Defendant reported a household composition of himself and his child. The Defendant also reported no income available to the household. During the application, the Defendant indicated that he was awaiting approval of his application for Unemployment Compensation with the West Virginia Bureau for Employment Programs. The Economic Service Worker processing the application approved expedited SNAP benefits and requested that the Defendant provide verification of his utility expenses. The Defendant was issued Exhibit D-2, Notice of Approval, informing him of the approval of prorated SNAP benefits for the month of October 2009.

- 5) On November 3, 2009, the Economic Service Worker processed verification of electric and water expenses submitted by the Defendant on October 26, 2009. On this date, the worker processed a data exchange with the West Virginia Bureau for Employment Programs and determined that the Defendant had been approved for unemployment compensation in October 2009 and was receiving \$326.00 on a weekly basis.
- 6) Lori Woodward, Repayment Investigator, submitted Exhibit D-4, Computer printout of BEP Unemployment Compensation details, to illustrate that the Defendant's application for unemployment compensation income had been approved October 6, 2009 and that the Defendant received his first two initial weekly payments prior to his application for SNAP benefits.
- 7) The Department submitted Exhibit D-5, Food Stamp Claim Determination Worksheet, to establish that the Defendant having provided false information regarding household income at his application for SNAP benefits resulted in an overpayment of Three Hundred and Fourteen Dollars (\$314.00) for the period of October 2009 through November 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 2.2 indicates:

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

Changes Acted On For SNAP AG's

a. Information Verified Upon Receipt

Action must be taken for all AG's when information is received from a source that is considered verified upon receipt. Verified upon receipt sources are not subject to independent verification and the provider is the primary source of the information. The only sources considered verified upon receipt are:

-BENDEX and SDX from SSA
-Unemployment Compensation from WVBE data exchange

- 10) 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

- 11) 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.

- 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.

VIII. CONCLUSIONS OF LAW:

- 1) Based on evidence presented during the Administration Disqualification Hearing, the Defendant provided false statements regarding household income to the Department in order to receive Supplemental Nutritional Assistance Program benefits for which he was not legally entitled. At his application for benefits, the Defendant informed the worker that he was awaiting approval of his application for unemployment compensation when he had in fact already been approved for this benefit and had received his first two weekly payments.
- 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. 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