



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
9083 Middletown Mall  
White Hall, WV 26554

Joe Manchin III  
Governor

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

March 12, 2010

-----  
-----  
-----

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on the Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, Administrative Disqualification Hearing held February 25, 2010 for the purpose of determining whether or not an Intentional Program Violation (IPV) has occurred.

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 benefits 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. An individual, who has made a fraudulent statement or representation about his identity or place of residence in order to receive multiple Food Stamp benefits simultaneously, is ineligible to receive Food Stamp benefits for a 10-year period. (West Virginia Income Maintenance Manual, Chapter 8.6,A, 20.2 and Code of Federal Regulations - 7 CFR § 273.16).

The information submitted at the hearing reveals that you made a fraudulent about your place of residence in order to receive multiple SNAP / Food Stamp benefits simultaneously.

It is the decision of the State Hearing Officer to **uphold** the Agency's proposal to apply a SNAP/Food Stamp disqualification penalty against you based on an Intentional Program Violation and receipt of simultaneous multiple benefits. The 10-year disqualification period will begin effective May 1, 2010.

Sincerely,

Thomas E. Arnett  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Teresa Smith, RI

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

-----,

**Defendant,**

**v.**

**Action Number: 10-BOR-678**

**West Virginia Department of  
Health and Human Resources,**

**DECISION OF STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from an Administrative Disqualification Hearing concluded on March 12, 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 February 25, 2010.

**II. PROGRAM PURPOSE:**

The Program entitled Food Stamps is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The purpose of 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:**

Teresa Smith, Repayment Investigator, DHHR

Presiding at the hearing was Thomas E. Arnett, 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 the Supplemental Nutrition Assistance Program (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 and 20.2

#### **VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

##### **Department's Exhibits:**

- D-1 Combined Application and Review Form (CAF) dated 4/30/09
- D-2 Case Comments dated 4/30/09 through 9/23/09
- D-3 Residential Lease Agreement [REDACTED] – signed March 11, 2009.
- D-4 Application in State of Ohio dated July 1, 2009
- D-5 Food Stamp Issuance History for period 4/1/08 through 9/8/09
- D-6 Food Stamp Claim Determination for July 2009 through September 2009
- D-7 Notification of Intent to Disqualify dated September 17, 2009
- D-8 WV Income Maintenance Manual, Chapters 1.2,E., 8.1, 8.2, 8.5, 8.6, 9.1, 20.1, 20.2, and WV Department of Health and Human Resources, Common Chapters Manual, §740.

#### **VII. FINDINGS OF FACT:**

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from the Department on January 21, 2010. The Department contends that the Defendant has committed an Intentional Program Violation and is recommending that the Defendant be disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP, formerly Food Stamp) for a period of ten (10) years.
- 2) Notification of the February 25, 2010 hearing was mailed to the Defendant on January 25, 2010 via First Class Mail, as the Defendant is a recipient of public assistance in the State of Ohio at the confirmed mailing address.
- 3) The hearing convened as scheduled at 11:00 a.m., and 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 the West Virginia Department of Health and Human Resources Common Chapters Manual, Chapter 740.20, the hearing was conducted without the Defendant in attendance.
- 4) The Department presented evidence (D-1) to show that the Defendant completed a SNAP eligibility review on April 30, 2009. The Defendant reported that she was residing at [REDACTED]

██████████. A Customer Questionnaire [sic] accompanies the CAF wherein the Defendant provides the same mailing address as well as directions to her home. She reported that her mother pays her utilities and she marked “no” to the question: Are you currently – or have you ever – receive benefits in any other State?

- 5) The Department submitted D-3 (Residential Lease Agreement signed by the Defendant on March 11, 2009) and testified that the Defendant was residing in Ohio when she completed the April 30, 2009 SNAP review in ██████████. The Department further contends that the Defendant applied for benefits in the State of Ohio (D-4) on July 1, 2009 and subsequently received SNAP benefits simultaneously from Ohio and West Virginia as confirmed in Exhibit D-5. It should be noted that the address on the lease agreement (D-3) matches the address on the July 2009 application for SNAP/Food Stamp benefits in the State of Ohio – ██████████  
██████████
- 6) Exhibit D-2 includes case comments made by the Department. Comments recorded in the Defendant’s case on August 26, 2009 indicate that a phone call was received from ██████████ (Human Resources worker in ██████████ County, OH) and she reported that the Defendant is residing in public housing in ██████████ and signed the lease in March 2009. Ms. ██████████ further reported that the Defendant has been getting Food Stamps since June 2009 from Ohio.

In a case comment posted later that same day (August 26, 2009), the Defendant phoned her worker regarding mail she received and it was explained that she needed to register with BEP (Bureau of Employment Programs). This comment goes on to state – “Also asked her if she was living in Ohio. She stated that she is living in WV.”

- 7) The Department submitted Exhibit D-6 (Food Stamp Claim Determination) to show that the Claimant received \$600 in SNAP benefits from the State of WV during the period July 2009 through September 2009 that she was not entitled to receive.
- 8) WV Income Maintenance Manual, Chapter 8.6 states that a client may not receive SNAP benefits, WV WORKS or Medicaid concurrently in more than one county in West Virginia or more than one state. In addition, he may not receive different types of benefits in more than one county or state at the same time. The possibility of intentional misrepresentation must be explored when it is discovered that the client is receiving benefits of any type in more than one county at the same time. See Common Chapters Manual for procedures involving misrepresentation.

Policy goes on to state that an individual who has made a fraudulent statement or representation about his identity or place of residence in order to receive multiple SNAP benefits simultaneously, is ineligible to receive SNAP benefits for a 10-year period. The 10-year period begins on the date the client is found guilty in a federal or state court or in an ADH. This applies to multiple benefits received in more than one state or in the same state. Conviction of, or ADH finding of, attempting to receive such multiple benefits carries the same disqualification penalty as actual receipt of the benefits.

- 9) West Virginia Income Maintenance Manual, Chapter 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.

- 10) West Virginia Income Maintenance Manual, Chapter 20.2:  
When a AG (assistance 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.
- 11) West Virginia Income Maintenance Manual, Chapter 20.2 (C) (2):  
Once an IPV (Intentional Program Violation) is established a disqualification penalty is imposed on the AG (assistance group) members who committed the IPV. Pursuant to WVIMM, Chapter 9.1, A, 2, g – Receipt of simultaneous multiple benefits as determined by an ADH or conviction in a state or federal court, due to a fraudulent statement with respect to identity or place of residence results in a program disqualification penalty of 10 years.
- 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.
- 13) Code of Federal Regulations found at 7 CFR §273.16.b.5 states:  
  
Except as provided under paragraph (b) (1) (iii) of this section, an individual found to have made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple food stamp benefits simultaneously shall be ineligible to participate in the Program for a period of 10 years.

## **VIII. CONCLUSIONS OF LAW:**

- 1) The regulations that govern SNAP benefits state that a Food Stamp Program (SNAP) 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 evidence is clear and convincing that the Defendant intentionally committed a SNAP/Food Stamp Program violation as defined in the Food Stamp policy and regulations.

- 3) In accordance with SNAP/Food Stamp policy and regulations, an Intentional Program Violation has been committed and a disqualification penalty must be applied. Making a fraudulent statement or representation about your identity or place of residence in order to receive multiple SNAP benefits simultaneously, results in ineligibility to receive SNAP benefits for a 10-year period. This applies to multiple benefits received in more than one state or in the same state.
- 4) Only the Defendant is subject to this disqualification. The 10-year disqualification will begin effective May 1, 2010.

**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 Agency's proposal to apply a 10-year disqualification is **upheld**. The Disqualification period will begin effective May 1, 2010.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 12<sup>th</sup> Day of March, 2010.**

---

**Thomas E. Arnett  
State Hearing Officer**