



**State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
203 E. Third Avenue  
Williamson, WV 25661**

**Joe Manchin III  
Governor**

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

May 19, 2010

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on the Supplemental Nutrition Assistance Program (SNAP) Administrative Disqualification Hearing held March 2, 2010 for the purpose of determining whether an Intentional Program Violation (IPV) was committed by you.

In arriving at a decision, the State Hearing Officer is governed by the Public Welfare Laws of West Virginia and 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.

Intentional Program Violations 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. 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, Chapter 20.2 and Code of Federal Regulations 7 CFR ' 273.16)

Information submitted at the hearing reveals that you intentionally provided false and misleading information about your household income in order to receive SNAP benefits for which you were not entitled.

It is the decision of the State Hearing Officer that an Intentional Program Violation was committed by you and a disqualification penalty of one (1) year will be applied. Your disqualification from SNAP will begin effective June 1, 2010.

Sincerely,

Stephen M. Baisden  
State Hearing Officer  
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review  
Brian Shreve, Repayment Investigator

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

-----,

**Defendant,**

**v.**

**Action Number: 10-BOR-692**

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

**Respondent.**

**DECISION OF STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from an Administrative Disqualification Hearing concluded on May 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. The hearing was convened on March 2, 2010.

**II. PROGRAM PURPOSE:**

The purpose of the Supplemental Nutrition Assistance Program (SNAP), formerly known as 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:**

-----, Defendant  
Brian Shreve, Repayment Investigator

Presiding at the Hearing was Stephen M. Baisden, State Hearing Officer and a member of the State Board of Review.

The Hearing Examiner placed under oath both participants at the beginning of the hearing.

#### **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 SNAP.

#### **V. APPLICABLE POLICY:**

7 CFR §273.16 Code of Federal Regulations

Common Chapters Manual, Chapter 700

West Virginia Income Maintenance Manual: Chapter 1.2, Chapter 20.2; Chapter 20.6

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

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

- D-1 Copy of the Code of Federal Regulations (CFR) §273.16 showing disqualifications for Intentional Program Violations..
- D-2 BVRF Screen print from RAPIDS System showing referral for recoupment.
- D-3 ES-FS-5, SNAP Claim Determination sheet.
- D-4 CMCC Screen Print from RAPIDS System showing case comments made on September 1, 2009.
- D-5 CMCC Screen Print from RAPIDS System showing case comments made on October 20, 2009.
- D-6 Copy of letter dated June 18, 2009 from [REDACTED] WV.
- D-7 Common Application Form (CAF) from RAPIDS System dated September 1, 2009 and Rights and Responsibilities Form (DFA-RR-1), both signed and dated by Defendant.
- D-8 Copy of Income Maintenance Manual Chapter 1.2.E showing customer responsibility for providing accurate information.
- D-9 Copy of Income Maintenance Manual Chapter 20.1 and 20.2 showing SNAP benefit claims and repayment procedures.
- D-10 Copy of Income Maintenance Manual Chapter 20.6.A showing definitions of Welfare Fraud.
- D-11 Copy of letters from Repayment Investigator to Defendant, including Notification of Intent to Disqualify dated December 1, 2009, and appointment letter for a pre-hearing conference to be held January 7, 2010 at 1:15 at the [REDACTED] County office of the WV DHHR, dated December 18, 2009.

## VII. FINDINGS OF FACT:

- 1) The Department is alleging an act of Intentional Program Violation, or IPV, in the Defendant's SNAP (formerly Food Stamp) case because she allegedly failed to report earned income from her daughter's employment during a benefits review interview on September 1, 2009. Defendant's daughter was a member of Defendant's household at the time.
- 2) On September 1, 2009, Defendant came into the WV Department of Health and Human Resources, [REDACTED] County office in [REDACTED] WV, and completed a review for SNAP benefits. An Economic Service Worker (ESW) recorded that she made the application and she reported that the only income in her household at that time was her Supplemental Security Income (SSI). (Exhibit D-4.) At the conclusion of the application interview, Defendant signed and dated a DFA-RFA-1, a Common Application Form (CAF) which contained information she had given the worker during the interview, and she signed and dated a DFA-RR-1, a Rights and Responsibilities form. (Exhibit D-7.) The CAF signature page states,

I understand my responsibility to provide complete and truthful information. I have reviewed or had read to me the information contained in this automated portion of the application form and I understand the information. I understand that it is a criminal violation of federal and state law to provide false or misleading information for the purpose of receiving benefits to which I am not by law entitled. Under penalty of perjury, I certify that the statements are true and correct.

The DFA-RR-1, Rights and Responsibilities form is a list of applicants' rights and responsibilities for each program for which an applicant applies. The applicant signifies that he or she is aware of each right or responsibility by checking "Yes" or "No" at each item. Under the SNAP Program section of the form, item #4 states,

I understand if I am found (by court action or 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. In addition, I will have to repay any benefits received for which I was not eligible.

Defendant has marked "Yes" at this item.

- 3) On May 1, 2009, the same ESW who completed Defendant's September SNAP review recorded that Defendant's daughter came into the WV DHHR, [REDACTED] County Office, to apply for Medicaid. (Exhibit D-5.) The worker recorded in pertinent part,

[Defendant's daughter] in office to apply for [Medicaid]. Verified job with [employer] at [REDACTED] . . . Received FAX from [REDACTED] verifying wages.

On that same date, the ESW initiated a computer-generated repayment-benefit recovery referral to the Repayment Investigator. (Exhibit D-2)

- 4) The Repayments Investigator submitted into evidence a letter from the daughter's employer indicating she had been working for the period of time in question. (Exhibit D-6.) The letter stated that Defendant's daughter had started her employment with [REDACTED] WV, a home-health agency, on May 27, 2009, and was paid \$6.75 per hour for about 12 hours per week. The letter also stated that daughter's pay went up to \$7.25 per hour and her weekly hours increased to 24 per week in July 2009.
- 5) The Repayment Investigator determined that as a result of Defendant's not reporting her daughter's earned income, she received an overissuance of SNAP benefits in the amount of \$494. (Exhibit D-3.)
- 6) Defendant made no statement during the hearing to refute the evidence and testimony of the Repayment Investigator. She stated that she instructed her daughter to report her income to her ESW, but her daughter failed to do so.
- 7) The Code of Federal Regulations, 7 CFR §273.16(c) (Exhibit D-1), defines an Intentional Program Violation (IPV) as:

(c) Definition of intentional Program violation. 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 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).

- 8) The West Virginia Income Maintenance Manual, Chapter 1.2.E (Exhibit D-8), states:

The client's responsibility is to provide information about his circumstances so the worker is able to make a correct decision about his eligibility . . . The client must be instructed that his failure to fulfill his obligation may result in one or more of the following actions: denial of the application; closure of the active AG [assistance group]; removal of the individual from the AG; repayment of benefits; reduction in benefits.

- 9) The West Virginia Income Maintenance Manual, Chapter 9.1.A.2.h, states:

h. 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

10) The West Virginia Income Maintenance Manual, Chapter 20.2 (Exhibit D-9), states:

IPV's include making false or misleading statements, 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.

11) The West Virginia Income Maintenance Manual, Chapter 20.6.A (Exhibit D-10), states:

A willfully false statement is one that is deliberately given, with the intent that it be accepted as true, and with the knowledge that it is false . . . [I]t is not essential that an affirmative representation be made. Misrepresentation may also be the suppression of what is true, as well as in the representation of what is false.

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

The Department has established that the Defendant intentionally failed to report earned income from an assistance group member's employment during a SNAP benefits review on September 1, 2009. She signed a Computer Application Form to the effect that the only income in her household was from her SSI benefits, and she signed a Rights and Responsibilities document indicating that she was aware of her responsibility to provide complete and accurate information and of the penalties for not doing so.

## **IX. DECISION:**

Withholding information concerning earned income during a SNAP application is a clear violation of the regulations. Based on the evidence presented, I find the violation intentional.

The Agency's proposal to apply a SNAP disqualification is **upheld**. The Defendant will be disqualified from participation in SNAP, or the Food Stamp program, for a period of twelve (12) months to begin effective July 1, 2010.

## **X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 19th Day of May, 2010.**

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**Stephen M. Baisden  
State Hearing Officer**