



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General

Joe Manchin III  
Governor

Board of Review  
1400 Virginia Street  
Oak Hill, WV 25901

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

March 24, 2010

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 5, 2010 for the purpose of determining whether or not an Intentional Program Violation occurred.

In arriving at a decision, the State Hearings 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 (SNAP) is based on current policy and regulations. These regulations provide that an 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 (Code of Federal Regulations - 7 CFR § 273.16).

The information submitted at your hearing revealed that you intentionally misrepresented your household's income by failing to report a change in your wife's employment at your SNAP application.

It is the decision of the State Hearings Officer to **Uphold** the proposal of the Department to impose an Intentional Program Violation against you effective May 2010.

Sincerely,

Kristi Logan  
State Hearings Officer  
Member, State Board of Review

cc: Cha-----n, Board of Review  
Christine Allen, Repayment Investigator

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

-----,

**Defendant,**

**v.**

**Action Number: 10-BOR-763**

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

**Movants**

**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 5, 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 March 5, 2010.

**II. PROGRAM PURPOSE:**

The Program entitled Supplemental Nutrition Assistance Program (SNAP) is administered by the West Virginia Department of Health & Human Resources.

The purpose of 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 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:**

Christine Allen, Repayment Investigator

Presiding at the Hearing was Kristi Logan , State Hearing Officer and a member of the Board of Review.

This hearing was held by videoconference.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not Defendant committed an Intentional Program Violation.

**V. APPLICABLE POLICY:**

WV Income Maintenance Manual § 1.2 E, 9.1 A and 10.33 EE  
Code of Federal Regulations- 7 CFR § 273.16

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

**Department's Exhibits:**

- D-1 Hearing Summary
- D-2 SNAP Claim Determination Form
- D-3 SNAP Issuance History Screen (IQFS) from RAPIDS Computer System
- D-4 SNAP Allotment Determination Screen (EFAD) from RAPIDS Computer System
- D-5 SNAP Claim Calculation Sheet
- D-6 Case Members History Screen (AQCM) from RAPIDS Computer System
- D-7 Case Comments (CMCC) from RAPIDS Computer System
- D-8 New Hire Screen from Date Exchange
- D-9 Employment Verification from [REDACTED] Inc.
- D-10 Employment Verification from [REDACTED] Community Hospital
- D-11 Paystubs from [REDACTED] Inc.
- D-12 Low Income Energy Assistance Program (LIEAP) Application dated November 5, 2009
- D-13 Combined Application Form dated November 3, 2009
- D-14 Rights and Responsibilities Form dated November 3, 2009
- D-15 Repayment Notification Letter dated January 11, 2010
- D-16 Notification of Intent to Disqualify dated January 11, 2010
- D-17 WV Income Maintenance Manual § 1.2 E
- D-18 WV Income Maintenance Manual § 10.3 EE
- D-19 WV Income Maintenance Manual § 20
- D-20 Code of Federal Regulations- 7 CFR § 273.16

**Defendant's Exhibits:**

None

**VII. FINDINGS OF FACT:**

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from Department of Health and Human Resources' Repayment Investigator, Christine Allen, on February 3, 2010. The Department contends that the Defendant has committed an Intentional Program Violation (IPV) and is recommending that he be disqualified from participation in SNAP for 12 months.

- 2) Defendant was notified of the hearing date by a letter issued by this Hearing Officer on February 4, 2010. Defendant failed to appear at the hearing or provide good cause for his failure to do so.
- 3) Defendant applied for SNAP on November 3, 2009. He reported his household's income as earned income for his wife, -----, from [REDACTED] [REDACTED]. The application was pended for proof of this income. On November 5, 2009 Defendant submitted paystubs to his worker for his wife from [REDACTED] for the month of October 2009. SNAP benefits were approved based on the income provided (D-1, D-7 and D-11).
- 4) In December 2009, the Department discovered that Defendant's wife had been hired by [REDACTED] Community Hospital on October 18, 2009. The Department verified with [REDACTED] that -----'s last day of employment was October 15, 2009. According to the employer, ----- quit her job at [REDACTED] for another job (D-9).

The Department verified with [REDACTED] Community Hospital -----'s employment start date as October 18, 2009 and her first paycheck was issued November 6, 2009 (D-10).

- 5) The Department contends Defendant intentionally reported and provided verification of employment for his wife that had already ended. Defendant did not report his wife's new employment which resulted in an overpayment of SNAP benefits of \$1326.
- 6) WV Income Maintenance Manual § 1.2 E 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. When the client is not able to provide the required verification, the Worker must assist him. The client must be instructed that his failure to fulfill his obligation may result in one or more of the following actions:

- Denial of application
- Closure of the active Assistance Group (AG)
- Removal of the individual from the AG
- Repayment of benefits
- Reduction in benefits

- 7) WV Income Maintenance Manual § 9.1 A(2)h states:

Persons who have been found guilty of an Intentional Program Violation (IPV) are disqualified [from SNAP] as follows:

- 1st offense: 1 year
- 2nd offense: 2 years
- 3rd offense: Permanent

- 8) WV Income Maintenance Manual § 10.3 EE states:

Wages, salaries, commissions and recurring bonuses count as earned income for SNAP

9) Code of Federal Regulations- 7 CFR § 273.16 states:

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 [SNAP] Act, the Food Stamp Program Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt or possession of Food Stamp coupons.

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

- 1) In order for an Intentional Program Violation to be established, it must be shown by clear and convincing evidence that the Defendant intentionally made a false or misleading statement or withheld or concealed facts from the Department.
- 2) Defendant intentionally misrepresented his household's income by reporting earned income from a terminated source and withheld information regarding his wife's new employment. Defendant's wife was already working at [REDACTED] Community Hospital when he applied for SNAP benefits in November 2009. The result was an overpayment of SNAP benefits issued for which Defendant was not entitled to receive.

### **IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to impose an Intentional Program Violation against Defendant effective May 2010.

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

See Attachment

### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 24<sup>th</sup> day of March 2010.**

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**Kristi Logan**  
**State Hearing Officer**