



**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**

March 17, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your Supplemental Nutritional Assistance Program (SNAP) Administrative Disqualification hearing held March 16, 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 May 1st, 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-786

**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 March 17, 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 16, 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 Food Stamp Claim Determination Worksheet
- D-2a Request for Assistance dated January 16, 2009
- D-2b Application for benefits dated January 16, 2009
- D-2c West Virginia Health Care Coverage for Kids and Expectant Moms dated January 14, 2009
- D-2d Identity Declarations for -----and -----(Social Security Cards and Birth Certificates included)
- D-2e Rights and Responsibilities dated January 16, 2009
- D-2f Computer printout of case comments associated with application for benefits dated January 16, 2009
- D-3 Approval Notice dated January 20, 2009
- D-4 Cancelled checks from -----(absent parent) indicating child support for January 2009, February 2009, and March 2009
- D-5 Notification of Intent to Disqualify dated December 23, 2009
- D-6 West Virginia Income Maintenance Manual Chapter 1.2, 1.4, 2.2, 9.1
- D-7 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 Administrative Disqualification Hearing on February 8, 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 February 9, 2010 via certified restricted delivery mail. On February 24, 2010, United States Postal Service notified the Board of Review that the Defendant received notice on February 23, 2010.
- 3) The hearing was convened as scheduled at 10:00 A.M., on the requested date, as of 10:20 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 with the Defendant in attendance.
- 4) On January 16, 2009, the Defendant applied for SNAP benefits, as well as Medicaid benefits for herself and her two children. Exhibit D-2a, D-2b, and D-2c documents that the Defendant reported a household composition of herself and two children with no income available to any members of the household. The Economic Service Worker processing the Defendant's request

for benefits indicated in her case comments (Exhibit D-2f), that the Defendant stated during her application for SNAP benefits that she did not receive any child support. Additionally, the worker verified the lack of child support income with the Bureau of Child Support Enforcement's benefit system and found no contradictory information. The Defendant was issued Exhibit D-3, Notice of Approval on January 20, 2009, informing her of the approval of her SNAP application for the month of January 2009.

- 5) The Department received an anonymous complaint informing the Department of the Defendant's receipt of directly paid child support from the absent parent of the Defendant's children. Further investigation of the complaint resulted in a discovery that the Defendant had been receiving child support income directly from the absent parent since September 2008. Exhibit D-4, Cancelled checks from -----, document that the Defendant received two checks for child support payments in the month of January for a total amount of \$750.00. This exhibit further indicates the dates in which funds were extracted from the absent parent's bank account. Lori Woodward, Repayment Investigator, testified that the Defendant was in receipt of child support income four days before her application for SNAP benefits with the Department. Additional testimony from Ms. Woodward revealed that the Defendant received direct pay child support in the amount of \$900.00 for the month of February 2009 and \$300.00 for the month of March 2009.
- 6) Ms. Woodward submitted Exhibit D-1, Food Stamp Claim Determination Worksheet, to establish that the Defendant having provided false information regarding receipt of child support income at her application for SNAP benefits resulted in an overpayment of Three Hundred and Sixty-Five Dollars for the period of January 2009 through March 2009.
- 7) 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.
- 8) 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.
- 9) 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
- 10) 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.

- 11) 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) Evidence presented during the Administrative Disqualification Hearing showed that the Defendant provided false statements regarding household income to the Department in order to receive Supplemental Nutritional Assistance Program benefits for which she was not legally entitled. At her application for benefits, the Defendant informed the worker that she was not in receipt of any income when she had in fact received directly paid child support from the absent parent four days prior to her application for benefits.
- 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 May 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 Department's 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 March 2010.

Eric L. Phillips
State Hearing Officer