



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 Washington Street, West
Charleston, WV 25313

Joe Manchin III
Governor

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

March 29, 2010

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 25, 2010 for the purpose of determining whether or not you 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 SNAP 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. (West Virginia Income Maintenance Manual §20.2 and Code of Federal Regulations - 7 CFR §273.16).

The information submitted at the hearing showed that you intentionally withheld information about your child's social security benefits in order to receive SNAP; therefore, you have committed an Intentional Program Violation.

It is the decision of the State Hearing Officer to **uphold** the Agency's proposal to apply a one (1) year SNAP disqualification penalty against you based on an Intentional Program Violation. Your penalty will begin May 1, 2010.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review/Natasha Jemerison, Kanawha DHHR

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

-----,

Defendant

v.

Action Number: 10-BOR-815

**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 an Administrative Disqualification Hearing 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 March 25, 2010.

It should be noted that the Defendant was notified of this hearing by first class mail delivery on or about February 12, 2010. Her mailing address has been validated as she currently receives benefits and services from the Department at that same address. The hearing was scheduled to begin at 2:00 P.M., and at 2: 21 P.M. the Defendant had failed to appear or show reason why she could not attend. The hearing was held in her absence.

II. PROGRAM PURPOSE:

The purpose of the Supplemental Nutrition 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:

Natasha Jemerison, State Repayment Investigator, Department Representative

Presiding at the Hearing was Cheryl Henson, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Defendant committed an Intentional Program Violation (IPV) and should be disqualified for one year from participation in 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 Benefit Recovery Referral Screen from RAPIDS dated January 19, 2010
- D-2 WV Income Maintenance Manual §1.2.E
- D-3 Food Stamp Claim Determination form with accompanying documents
- D-4 Code of Federal Regulations 7CFR273.16
- D-5 Combined Application Form (CAF) dated August 14, 2007
- D-6 Rights and Responsibilities form dated August 14, 2007
- D-7 CAF and accompanying forms dated March 3, 2008
- D-8 Low Income Energy Assistance application for period April 2008
- D-9 CAF and accompanying forms dated August 11, 2008
- D-10 Rights and Responsibilities forms dated August 11, 2008
- D-11 Income Verification from [REDACTED] Inc. dated April 2009
- D-12 CAF and accompanying forms dated November 6, 2008
- D-13 Rights and Responsibilities forms dated November 6, 2008
- D-14 CAF and accompanying forms dated August 14, 2009
- D-15 Rights and Responsibilities forms dated August 14, 2009
- D-16 WV State Online Query (SOLQ) report and accompanying forms dated January 19, 2010
- D-17 WV Income Maintenance Manual Section 2.2
- D-18 WV Income Maintenance Manual Section 20.6
- D-19 Notification letters dated January 19, 2010

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing (ADH) was received by the Board of Review from the Department of Health and Human Resources (Department) on February 10,

2010. The Department contends that the Defendant has committed an Intentional Program Violation (IPV) and withheld information regarding her household income in order to receive SNAP (formerly known as the Food Stamp Program), and is recommending that the Defendant be disqualified from participation in SNAP for a period of one (1) year.

- 2) On or about January 19, 2010 the Department sent the Defendant a Notification of Intent to Disqualify (D-19) form, indicating that it had reason to believe she intentionally violated a food stamp rule. The form also included the following:

Based on the evidence developed through our investigation, the agency believes that ----- intentionally violated the food stamp program by: not reporting -----'s social security. The evidence to prove this allegation consists of applications, LIEAP app., and Verification of Social Security income.

- 3) The Department's position is that the Defendant intentionally withheld, on numerous occasions, information that her child, -----, is receiving social security benefits. The Department provided evidence to support that the Defendant withheld this information during numerous interviews with the Department. The Defendant completed applications and review interviews with the Department on August 14, 2007, March 8, 2008, August 11, 2008, November 6, 2008 and August 14, 2009 at which time she withheld this information from the Department. She signed Rights and Responsibilities forms each time acknowledging she understood her obligation to report accurate and truthful information.
- 4) The Department became aware that the Defendant was receiving social security benefits for her daughter, -----, on or about August 14, 2009 during a routine review of data cross match computer screens from RAPIDS.
- 5) The Department subsequently obtained verification from the Social Security Administration (D-16) which shows that the Defendant began receiving regular monthly checks of social security benefits for ----- in July 2007 in the amount of three hundred forty six dollars (\$346.00). The payments have been consistently received, although the amounts have periodically increased, since that date and are mailed to the Defendant at the same address she uses for her SNAP case.
- 6) West Virginia Income Maintenance Manual §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.
- 7) West Virginia Income Maintenance Manual § 20.2 (C) (2) states in pertinent part:

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.

The individual(s) who is found to have committed an IPV is ineligible to participate in the program for a specified time, depending on the number of offenses committed.

Once an IPV is established, a disqualification penalty is imposed on the AG member(s) who committed the IPV.

- 8) Common Chapters Manual 700, Appendix A, Section B, provides 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 benefits.
- 9) Common Chapters Manual 700, Appendix A, Section G, states that the State Hearing Officer shall base the determination of Intentional Program Violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, an Intentional Program Violation as defined in Section B of this Appendix.
- 10) The Defendant signed numerous Rights and Responsibilities forms (D-6) thereby acknowledging the following pertinent responsibilities:
 - 4) I understand if I am found (by court action or an 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.
 - 7) I understand that if I receive SNAP benefits I have to report when my total household income exceeds the SNAP gross income limit. I also understand that I will be notified what this amount is and that I must report this to DHHR by the 10th of the month after the increase happens. I also understand that if my household lives in a time-limited county and contains an ABAWD, I must report when that person's work hours are reduced to less than 20 hours a week, averaged monthly. I understand that none of the other SNAP reporting requirements listed on this form apply to my household.
 - 48) I also understand that if I give incorrect or false information or if I fail to report changes that I am required to report, I may be required to repay any benefits I receive and I may also be prosecuted for fraud. I also understand that any person who obtains or attempts to obtain benefits from DHHR by means of a willfully false statement or misrepresentation or by impersonation or any other fraudulent device can be charged with fraud.
 - 49) I certify that all statements on this form have been read by me or read to me and that I understand them. I certify that all the information I have given is true and correct and I accept these responsibilities.

- 11) West Virginia Income Maintenance Manual §9.1.A.2.h states:

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

VIII. CONCLUSIONS OF LAW:

- 1) The policy and regulations that govern the Food Stamp program state that a Food Stamp 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.
- 2) The regulations state there must be clear and convincing evidence that demonstrates the Defendant intentionally committed an Intentional Program Violation.
- 3) The evidence is clear and convincing. It shows that the Defendant intentionally withheld income information regarding her child's social security benefits. The benefits were authorized to her and mailed to her at her current address. The Defendant has been receiving the unearned income since July 2007.
- 4) The Defendant has had numerous opportunities to report the income, having completed numerous application and review interviews with the Department during this timeframe. It is clear that she understood her rights and her responsibility to report this income, having completed rights and responsibilities forms each time she was interviewed at application and review. These forms are clear in that all income is to be reported. She clearly withheld the information intentionally.
- 5) The Department is correct in its determination that the Defendant has committed an Intentional Program Violation by intentionally withholding information about her household income.

IX. DECISION:

The Agency's proposal to apply a one (1) year Food Stamp disqualification penalty is **upheld**. The penalty will begin May 1, 2010.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 29th Day of March, 2010.

**Cheryl Henson
State Hearing Officer**