



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

May 25, 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 (ADH) held May 13, 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 provided false information about your household's composition in order to receive SNAP for which you were not entitled.

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 begins July 1, 2010.

Sincerely,

Cheryl Henson  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review/ Jennifer Butcher, Kanawha DHHR

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

-----,

**Defendant**

**v.**

**Action Number: 10-BOR-1074**

**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 May 13, 2010.

**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:**

Jennifer Butcher, 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 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 (WV) 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 April 29, 2010
- D-2 Code of Federal Regulations §7 CFR 273.16
- D-3 WV Income Maintenance Manual §1.2.E
- D-4 Computer screens from RAPIDS
- D-5 Combined Application Forms (CAF), Rights and Responsibilities forms, and other computer screens
- D-6 Low Income Energy Assistance Program (LIEAP) application dated May 15, 2009
- D-7 Verification Checklist form dated November 7, 2009 / LIEAP application October 26, 2009
- D-8 Sworn Written Statement from ----- dated November 10, 2009
- D-9 Sworn Written Statement from neighbor dated November 10, 2009
- D-10 Employment verification from City [REDACTED] dated November 6, 2009
- D-11 WV Income Maintenance Manual Section 2.2
- D-12 WV Income Maintenance Manual Section 2.2
- D-13 WV Income Maintenance Manual Section 2.2.B.3
- D-14 Food Stamp Claim Determination forms
- D-15 WV Income Maintenance Manual Section 20.6
- D-16 Notification letters to Defendant
- D-17 WV Income Maintenance Manual Section 20.2
- D-18 WV Income Maintenance Manual Section 20.2.E
- D-19 WV Income Maintenance Manual Section 20.2.F.2

**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 March 24, 2010. The Department contends that the Defendant has committed an Intentional Program

Violation (IPV) and made a fraudulent statement or misrepresentation regarding her household composition 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) The Defendant was notified of today's scheduled hearing on or about April 7, 2010 by first class United States mail delivery. The scheduling notice instructed the Defendant that if she could not attend as scheduled and would like the date of the hearing changed, she must contact the Hearing Officer at 304-746-2360, extension 2227. The notice also explained to the Defendant that if she did not attend the scheduled hearing another would be scheduled for her in the event she could show good cause for failure to appear within ten (10) days from the date of the scheduled hearing.
- 3) The hearing was scheduled to begin at 9:00 a.m., and by 9:27 a.m. the Defendant failed to appear or show good cause for failure to appear. In accordance with Federal Regulations 7 CFR §273.16(e)(4) and Common Chapters Manual Section 740.20, the hearing was held in the her absence.
- 4) The Board of Review received notice at approximately 11:00 a.m. that same day that the Defendant contacted another Department employee regarding her inability to appear for the hearing. An abandonment letter was mailed to the Defendant on May 13, 2010 allowing her 10 days to respond in writing and show good cause for her failure to appear. The Defendant failed to respond within the timeframe allowed and a decision is being rendered based on the information provided by the Department during the May 13, 2010 hearing.
- 5) On or about March 8, 2010 the Department sent the Defendant a Notification of Intent to Disqualify (D-16) form, indicating that the Department 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: failing to report husband, -----to the case and his earnings. The evidence to prove this allegation consists of a statement from ----- and income verification from City [REDACTED]

- 6) The Department presented evidence to show (D-9) that ----- [REDACTED] the Defendant's husband, has lived in her home since at least June 2009. The Department obtained a sworn written statement from the Defendant's neighbor, -----, who lives at ----- . He stated that he has lived at this address since June 2009 and that the Defendant and her husband were already living at ----- . He stated that he knows them very well and sees them together every day. He added that ----- works for the City [REDACTED] and -----works at an animal shelter or hospital.
- 7) The Department also presented as evidence (D-8) a sworn written statement from the Defendant in which she states the following pertinent information:

My husband ----- lives here, there and everywhere. He is here quite a lot. --- --- is -----'s son and stays here full time. I would like to request my SNAP case and Medicaid cases closed. I understand that if -----'s income from the

City [REDACTED] is added to my case I would most likely be over income so I'd just like it closed.

I understand I may owe SNAP benefits back to the Department since ----- was not included in the case. ----- and I are buying this place together. ----- makes the mortgage payment to [REDACTED]

- 8) Additionally, the Department presented evidence (D-10) which shows that -----uses the Defendant's residential address as his own with his employer, the City [REDACTED] and lists himself as married for tax purposes.
- 9) The Defendant signed numerous applications and Rights and Responsibilities forms (D-5, D-6, and D-7) from May 15, 2009 through October 26, 2009 during which time she did not report that -----lived in her household. These applications and responsibilities forms include statements of understanding which, when signed, indicate the individual is aware of his or her responsibility to report accurate and truthful information and the penalties involved for failure to do so.
- 10) 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.

- 11) West Virginia Income Maintenance Manual § 20.2 (C) (2) states in pertinent part:

IPV's include making false or misleading statement, 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.

- 12) 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.
- 13) 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.

- 14) The Rights and Responsibilities forms (D-5, D-6, and D-7) signed by the Defendant include the following pertinent statements:

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.

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.

- 15) 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:

- 1<sup>st</sup> Offense: 1 year
- 2<sup>nd</sup> Offense: 2 years
- 3<sup>rd</sup> 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 Defendant clearly was aware of her responsibility to report accurate and truthful information and the penalties involved for failure to do so. She signed numerous applications and Rights and Responsibilities forms during the timeframe in question, acknowledging her understanding of these responsibilities.
- 4) The evidence is also clear in that the Defendant intentionally reported false information about her household composition on numerous occasions in order to receive SNAP. The evidence shows that the Defendant's husband, -----, lived with her at -----. She falsely reported on numerous occasions that he did not live with her in order to receive SNAP.

- 5) The Department was correct in its determination that the Defendant has committed an Intentional Program Violation by intentionally reporting false information about her household composition.

**IX. DECISION:**

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

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 25<sup>th</sup> Day of May, 2010.**

---

**Cheryl Henson  
State Hearing Officer**