



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

April 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 April 20, 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 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 June 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-907**

**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 April 20, 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:**

-----, Defendant

-----, witness

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 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 February 18, 2010
- D-2 WV Income Maintenance Manual §1.2.E
- D-3 Food Stamp Claim Determination forms and supporting documents
- D-4 Code of Federal Regulations 7 CFR 273.16
- D-5 Combined Application Form (CAF) dated December 17, 2007
- D-6 Rights and Responsibilities form dated December 17, 2007
- D-7 Combined Application Form (CAF) dated June 9, 2008
- D-8 Rights and Responsibilities forms dated June 9, 2008
- D-9 WV Children's Health Insurance Program (CHIP) application dated December 5, 2008
- D-10 CAF dated January 9, 2009 and supporting documents
- D-11 CAF dated April 10, 2009 and supporting documents
- D-12 Rights and Responsibilities forms dated April 10, 2009
- D-13 Case comments from RAPIDS computer system
- D-14 OSCAR computer system narratives
- D-15 CAF dated October 9, 2009 and supporting documents
- D-16 Rights and Responsibilities forms dated October 9, 2009
- D-17 WV CHIP application dated November 10, 2009
- D-18 Notification letters dated February 23, 2010
- D-19 Written witness statement
- D-20 RAPIDS computer system case comments
- D-21 Court documents dated July 23, 2009

**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 December 8, 2009. 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) On or about February 23, 2010 the Department sent a Waiver of Administrative Disqualification Hearing (D-18) form to the Defendant, indicating that it believed that she received SNAP by means of an intentional violation of a program rule. The letter alleges that --  
--- did not report that -----was in the home and did not report his income.
- 3) The Department presented evidence to show that the Defendant completed an application (D-5) for SNAP and Medicaid on December 17, 2007 at which time she reported her household included herself, and her two children. She reported that -----was no longer living I her home. She also signed (D-6) the Rights and Responsibilities form indicating she understood her responsibility to report accurate and truthful information and the penalties for failure to do so.
- 4) The Defendant completed another application (D-7) on June 9, 2008 at which time she again did not report that -----lived in her home. She reported receiving child support income from him. She signed the Rights and Responsibilities form (D-8), again indicating she understood her responsibility to report accurate and truthful information and the penalties for failure to do so.
- 5) The Defendant completed and Medicaid review (D-9) form on December 3, 2008 and again did not report -----in her household.
- 6) The Defendant completed a SNAP and Medicaid review (D-10) on December 11, 2008. She reported that her household included herself and her three children. She did not report ----- living in her household. She signed the application indicating all is truthful and accurate.
- 7) The Defendant completed a SNAP review and WV WORKS application (D-11) on April 10, 2009 at which time she reported herself and her three (3) children as the only individuals living in the home. She signed the application acknowledging that her statements were true and accurate. She signed the Rights and Responsibilities form (D-12) indicating she understood her responsibility to report accurate and truthful information and the penalties for failure to do so.
- 8) The Department presented evidence (D-14), in the form of worker documented case comments entered into the Child Support Unit's computer system, which indicate that on May 29, 2009 the parties (-----and the Defendant) were trying to get back together. In addition, on August 21, 2009 it is documented that "per order parties reside together CS (child support) has been set at \$0 per month." On September 23, 2009 it is documented that a telephone contact between the Department and the Defendant includes "confirmed [REDACTED] is in household and wishes to close case. Explained procedure." On October 1, 2009 another comment in its computer system includes "[REDACTED] (Defendant) stated that at this point she would just wish for case to remain

open due to no CS (child support) being paid at this time and that she and [REDACTED] are currently together.”

- 9) The Department also verified (D-14) that as of December 3, 2009 the Defendant and ----- utilized the same mailing address. In addition, it verified that -----utilized the Defendant’s address as his own for purposes of employment.
- 10) The Defendant completed an application (D-15) on October 9, 2009 at which time she reported that -----lived in her household. She reported his income at this time. She signed the Rights and Responsibilities form (D-16) indicating she understood her responsibility to report accurate and truthful information.
- 11) On November 10, 2009 the Defendant completed another application (D-17) at which time she reported that -----no longer lived with her.
- 12) The Family Court of [REDACTED] County, West Virginia issued a Final Order of Paternity (D-21) on July 23, 2009 at which time it documented that the Defendant and -----were currently living together and supporting their children. The order states that because the parties are living together and jointly supporting the children, child support is fixed at zero dollars (\$0) per month. Neither the Defendant nor -----was present for that hearing.
- 13) It is the Department’s position that -----lived in the Defendant’s home during a period in which she reported he did not live with her, and that this withholding of information was done intentionally in order to receive SNAP. Natasha Jemerison, an investigator for the Department, stated that -----utilized the same mailing address as the Defendant, and the Child Support Unit documented that the Defendant confirmed with them on September 23, 2009 that he was living with her. The Defendant denies that she reported him living with her.
- 14) The Defendant testified that -----did not live with her during those timeframes and she did not withhold information in order to receive SNAP. The Defendant’s mother, -----, testified that she owns the home her daughter lives in and that -----was not living with her daughter during the timeframe in question. She also stated that she helps her daughter pay the utility bills and buy personal items for her household. She added that he has lived with her since February 2010 only.
- 15) 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.
- 16) 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.

- 17) 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.
- 18) 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.
- 19) 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.
  - 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.
- 20) 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 information and the penalties involved. She signed numerous Rights and Responsibilities forms during the period in question which supports that she was knowledgeable of those rights and responsibilities. These forms clearly inform the individual that giving incorrect or false information may be considered fraud, and the penalties involved for providing false information.
- 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. She repeatedly reported that -----did not live in her household throughout the period, although the evidence supports that he was there.
- 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 June 1, 2010.

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

See Attachment

## **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 29<sup>th</sup> Day of April, 2010.**

---

**Cheryl Henson  
State Hearing Officer**