



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
203 E. Third Avenue
Williamson, WV 25661**

**Joe Manchin III
Governor**

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

July 16, 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 June 2, 2010 for the purpose of determining whether an Intentional Program Violation (IPV) was committed by you.

In arriving at a decision, the State Hearing Officer is governed by the Public Welfare Laws of West Virginia and 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.

Intentional Program Violations 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. 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, Chapter 20.2 and Code of Federal Regulations 7 CFR ' 273.16)

Information submitted at the hearing reveals that you intentionally provided false and misleading information about your household composition in order to receive SNAP benefits for which you were not entitled.

It is the decision of the State Hearing Officer that an Intentional Program Violation was committed by you and a disqualification penalty of one (1) year will be applied. Your disqualification from SNAP will begin effective September 1, 2010.

Sincerely,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review
Christine Allen, Repayment Investigator

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

-----,

Defendant,

v.

Action Number: 10-BOR-964

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

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from an Administrative Disqualification Hearing concluded on July 16, 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. The hearing was convened on June 2, 2010.

II. PROGRAM PURPOSE:

The purpose of the Supplemental Nutrition Assistance Program (SNAP), formerly known as the Food Stamp Program, 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:

-----, Defendant

Christine Allen, Repayment Investigator

Presiding at the Hearing was Stephen M. Baisden, State Hearing Officer and a member of the State Board of Review.

The Hearing officer placed both participants under oath at the beginning of the hearing.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Defendant committed an Intentional Program Violation (IPV) and should be disqualified for a specified period from participation in SNAP.

V. APPLICABLE POLICY:

7 CFR §273.16 Code of Federal Regulations

Common Chapters Manual, Chapter 700

West Virginia Income Maintenance Manual: Chapter 1.2.E, Chapter 9.1, Chapter 10.3.EE,
Chapter 20.1, 20.2 and 20.6

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 IG-BR-31 Hearing Summary.
- D-2 ES-FS-5 SNAP Claim Determination sheet.
- D-3 IQFS Screen Print from RAPIDS system showing SNAP issuance history.
- D-4 EFAD Screen Print from RAPIDS showing SNAP allotment determination for each month of SNAP benefits received by Defendant.
- D-5 ES-FS-5a SNAP calculation sheets showing corrected benefit amounts.
- D-6 AQCM Screen print from RAPIDS System showing case member history.
- D-7 CMCC Screen print from RAPIDS System showing Income Maintenance worker case comments made on date of Defendant's SNAP application, December 17, 2009.
- D-8 DXPR Screen print from RAPIDS System showing prison match for other individual in Defendant's assistance group, Defendant's son.
- D-9 Screen print from WV Regional Jail Authority showing Defendant's son was booked at the [REDACTED] Regional Jail on October 14, 2009, and was still an inmate there on January 14, 2010.
- D-10 Screen print from WV Department of Corrections showing Defendant's son was sentenced on January 7, 2010, and is an inmate at the [REDACTED] Correctional Center.
- D-11 Copies of Combined Application and Review forms signed by Defendant.
- D-12 Copy of Rights and Responsibilities form signed by Defendant.
- D-13 Copy of Notice of Decision sent to Defendant dated December 18, 2009, showing Defendant's son was included in Defendant's SNAP benefits.
- D-14 Copy of appointment letter (IFM-1-7d) sent to Defendant asking him to meet with Repayment Investigator to discuss this referral.
- D-15 Copy of IFM-BR-44 Waiver of Administrative Disqualification Hearing form and IFM-BR-44a Notice of Intent to Disqualify form sent to Defendant.
- D-16 Copy of Income Maintenance Manual Chapter 1.2.E showing client responsibility for providing accurate information.
- D-17 Copy of Income Maintenance Manual Chapter 9.1.A.1 showing the SNAP assistance group must include all eligible individuals who both live together and purchase and prepare their meals together.
- D-18 Copy of Income Maintenance Manual Chapter 20.1 and 20.2 showing SNAP overpayment claims and repayment procedures.
- D-19 Copy of the Code of Federal Regulations (CFR) §273.16 showing disqualifications for Intentional Program Violations.

VII. FINDINGS OF FACT:

- 1) The Department is alleging an act of Intentional Program Violation, or IPV, in the Defendant's SNAP (formerly Food Stamp) case because he allegedly failed to report the fact that his son, a member of his SNAP assistance group, was incarcerated and was not living with him at the time of a SNAP reapplication interview on December 17, 2009.
- 2) On December 17, 2009, Defendant came into the WV Department of Health and Human Resources, [REDACTED] County office in [REDACTED] WV, and reapplied for SNAP benefits. An Economic Service Worker (ESW) recorded that he made the application and he reported at that time that there were two individuals in his SNAP assistance group, himself and his son. (Exhibit D-7.) At the conclusion of the reapplication interview, Defendant signed and dated a DFA-RFA-1, a Common Application Form (CAF) which contained information he had given the worker during the interview (Exhibit D-11), and he signed and dated a DFA-RR-1, a Rights and Responsibilities form. (Exhibit D-12.) The CAF signature page states,

I understand my responsibility to provide complete and truthful information. I have reviewed or had read to me the information contained in this automated portion of the application form and I understand the information. I understand that it is a criminal violation of federal and state law to provide false or misleading information for the purpose of receiving benefits to which I am not by law entitled. Under penalty of perjury, I certify that the statements are true and correct.

The DFA-RR-1, Rights and Responsibilities form is a list of applicants' rights and responsibilities for each program for which an applicant applies. The applicant signifies that he or she is aware of each right or responsibility by checking "Yes" or "No" at each item. Under the SNAP Program section of the form, item #4 states,

I understand if I am found (by court action or 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. In addition, I will have to repay any benefits received for which I was not eligible.

Defendant has marked "Yes" at this item.

- 3) On January 6, 2010, Defendant's Economic Services Worker received a data exchange match on Defendant's case from the Department of Corrections indicating Defendant's son was incarcerated on October 14, 2009 and was an inmate there at the time of the data match (Exhibit D-8.) Also on January 6, 2009, the Economic Services Worker recorded that he or she referred this information to a Repayments Investigator.
- 4) The Repayments Investigator completed an ES-FS-5, Food Stamp Claim Determination, wherein she calculated that Defendant was overpaid SNAP benefits for the month following the reapplication, January, 2010, and that the amount of the overpayment was \$167. (Exhibit D-2.)

- 5) The Code of Federal Regulations, 7 CFR §273.16(c) (Exhibit D-19), defines an Intentional Program Violation (IPV) as:

(c) Definition of intentional Program violation. 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 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).

- 6) The West Virginia Income Maintenance Manual, Chapter 1.2.E (Exhibit D-16), 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 . . . The client must be instructed that his failure to fulfill his obligation may result in one or more of the following actions: denial of the application; closure of the active AG [assistance group]; removal of the individual from the AG; repayment of benefits; reduction in benefits.

- 7) The West Virginia Income Maintenance Manual, Chapter 9.1.A.2.h, states:

h. 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

- 8) The West Virginia Income Maintenance Manual, Chapter 20.2.C.2 (Exhibit D-18), states:

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.

- 9) The West Virginia Income Maintenance Manual, Chapter 20.6.A states:

A willfully false statement is one that is deliberately given, with the intent that it be accepted as true, and with the knowledge that it is false. [I]t is not essential that an affirmative representation be made. Misrepresentation may also be the suppression of what is true, as well as in the representation of what is false.

- 10) Defendant made no statement and offered no evidence to refute Department's assertion that he did not report the fact that his son was no longer a part of his assistance group.

VIII. CONCLUSIONS OF LAW:

The Department has established that the Defendant falsely reported that his son was in the home while his son was incarcerated during Defendant's SNAP reapplication on December 17, 2009. This constitutes an intentional program violation as defined by West Virginia DHHR policy and Federal regulations.

IX. DECISION:

The Agency's proposal to apply a SNAP disqualification is **upheld**. The Defendant will be disqualified from participation in SNAP, or the Food Stamp program, for a period of twelve (12) months to begin effective September 1, 2010.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 16th Day of July, 2010.

Stephen M. Baisden
State Hearing Officer