



**State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General**

**Board of Review**  
P.O. Box 1736  
Romney, WV 26757

**Earl Ray Tomblin  
Governor**

**Michael J. Lewis, M.D., Ph.D.  
Cabinet Secretary**

July 5, 2011

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your Supplemental Nutrition Assistance Program Administrative Disqualification Hearing held June 16, 2011. The purpose of this hearing was to determine whether or not you intentionally committed an Intentional Program Violation.

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 Nutrition Assistance Program is based on current policy and regulations. These regulations provide that an Intentional Program Violation consists of having intentionally made a false or misleading statement, or misrepresented, concealed or withheld facts; or committed any act that constitutes a violation of the Food Stamp Act, SNAP regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of SNAP 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 § 20.2 and Code of Federal Regulations-7 CFR § 273.16).

The information which was submitted at your hearing revealed that you withheld information concerning your employment at your application and recertification for SNAP benefits, when in fact you were currently employed.

It is the decision of the State Hearing Officer to Uphold the proposal of the Department to implement a 12 month Intentional Program Violation. The disqualification penalty will begin on August 1, 2011 and will run concurrently for the next 12 months.

Sincerely,

Eric L. Phillips  
State Hearing Officer  
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review  
Lori Woodward, Repayment Investigator

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

**IN RE:    -----,**

**Defendant,**

**v.**

**ACTION NO.: 11-BOR-1064**

**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 a fair 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 June 16, 2011.

**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:**

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:**

Code of Federal Regulations, 7 CFR § 273.16  
Common Chapters Manual, Chapter 700  
West Virginia Income Maintenance Manual, Chapter 20.2; Chapter 9.1.A.2.h

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

- D-1 Combined Application and Review Form with associated Rights and Responsibilities dated September 22, 2006
- D-2 Notice of Decision dated September 25, 2006
- D-3 Employment Data and Wage History from [REDACTED]
- D-4 Combined Application and Review Form with associated Rights and Responsibilities dated November 30, 2007
- D-5 Combined Application and Review Form with associated Rights and Responsibilities dated April 1, 2008
- D-6 Wage History from [REDACTED]
- D-7 Combined Application and Review Form with associated Rights and Responsibilities dated November 25, 2008
- D-8 Wage History from [REDACTED] Corporation
- D-9 Combined Application and Review Form with associated Rights and Responsibilities dated April 2, 2009
- D-10 Combined Application and Review Form with associated Rights and Responsibilities dated October 1, 2009
- D-11 Food Stamp Claim Determination
- D-12 Food Stamp Claim Determination
- D-13 Notification of Intent to Disqualify dated April 19, 2011
- D-14 West Virginia Income Maintenance Manual Chapter 20.2 and Common Chapters 740.11
- D-15 West Virginia Income Maintenance Manual Chapter 1.2, 1.4, 2.2, 9.1

**VII. FINDINGS OF FACT:**

- 1) The Board of Review received a request for an Administrative Disqualification Hearing on May 5, 2011. 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) On May 11, 2011, a Notice of Scheduled Hearing was mailed to the Defendant, via certified restricted mail delivery to the reported address of -----, -----. On May 13, 2011, the State Hearing Officer received notice from the United States Postal Service that the Defendant received the notice on May 12, 2011.
- 3) The hearing was convened as scheduled at 1:30 P.M., on the requested date, as of 1:45 P.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 without the Defendant in attendance.

- 4) On April 19, 2011, the Department issued the Defendant Exhibit D-13, Notification of Intent to Disqualify, indicating that the Department had reason to believe the Defendant intentionally violated a SNAP rule. This exhibit documents in pertinent part:

Based on the evidence developed through our investigation, the agency believes that ----- intentionally violated the food stamp program by falsely reporting she did not have any earned income.

- 5) The Department contends that the Defendant made false statements concerning her employment at her application for SNAP benefits on September 22, 2006 (Exhibit D-1) and subsequent SNAP benefit recertifications on November 30, 2007 (Exhibit D-4), April 1, 2008 (Exhibit D-5), November 25, 2008 (Exhibit D-7), April 2, 2009 (Exhibit D-9) and October 1, 2009 (Exhibit D-10).
- 6) On September 22, 2006, the Defendant completed Exhibit D-1, Combined Application and Review Form as part of her application for SNAP benefits. Exhibit D-1 documents that the Defendant reported that she was unemployed and receiving \$150.00 a month in child support.
- 7) Ms. Lori Woodward, Repayment Investigator testified that the Department discovered that the Defendant had been employed during her September 2006, application for SNAP benefits and failed to report income from her employment with [REDACTED] Ms. Woodward presented Exhibit D-3, Employment Data and Wage History from [REDACTED] dated October 5, 2007, which documents that Defendant was employed from July 5, 2006 through December 7, 2006. The exhibit documents that the Defendant received employment income every two weeks during her employment, specifically, the Defendant received income of \$633.00 on September 7, 2006 and \$707.50 on September 21, 2006.
- 8) On November 30, 2007, the Defendant conducted a recertification for SNAP benefits and completed Exhibit D-4, Combined Application and Review Form. Exhibit D-4 documents that the Defendant reported that she was unemployed and received \$300.00 a month in child support. On April 1, 2008, the Defendant completed an additional recertification for SNAP benefits (Exhibit D-5) and reported self-employment income (daycare provider) and her monthly child support income.
- 9) Ms. Woodward presented Exhibit D-6, Wage History from [REDACTED] dated October 10, 2010, to demonstrate that the Defendant was employed during her recertifications for SNAP benefits and made a false statement concerning her employment at such recertifications. Exhibit D-6 documents that the Defendant was employed with [REDACTED] from September 4, 2007 through September 8, 2008 and received income twice a month. Specifically, the exhibit documents that the Defendant received \$682.00 on November 15, 2007 and \$604.50 on November 30, 2007 and a total income of \$2492.77 for the month of March 2008.
- 10) On November 25, 2008, the Defendant completed an additional recertification for SNAP benefits and completed Exhibit D-7, Combined Application and Review Form. Exhibit D-7

documents that Defendant reported her income from her self-employment (daycare provider) and her monthly child support income.

- 11) Ms. Woodward presented Exhibit D-8, Wage History from [REDACTED] Corporation to demonstrate that the Defendant made a false statement during her recertification concerning her employment. Exhibit D-8 documents that the Defendant was employed with [REDACTED] Corporation from September 28, 2008 through February 19, 2010 and received income twice a month. Specifically, the exhibit documents that the Defendant received \$1408.00 on November 5, 2008 and \$1536.00 on November 20, 2008. Ms. Woodward testified that the Defendant completed additional recertification for SNAP benefits on April 2, 2009 and October 1, 2009 and made a false statement concerning her income because she reported her income of child support and self-employment income when, in fact, she was currently employed with [REDACTED] Corporation.
- 12) The Defendant completed and signed the Rights and Responsibilities section of each application and recertification (Exhibit D-1, D-4, D-7, D-9, and D-10) for SNAP benefits. The Defendant specifically acknowledged the following:

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.

- 13) Ms. Woodward presented Exhibit D-11 and D-12, Food Stamp Claim Determination worksheet to demonstrate that by withholding the employment information an overpayment of SNAP benefits was issued to the Defendant in the amount of \$1496.00 from September 2006 through December 2006 and \$16,551 from November 2007 through April 2010.
- 14) 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.

- 15) West Virginia Income Maintenance Manual, Chapter 9.1 indicates:

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

- 16) 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.

17) Common Chapters Manual 740.22.M states as follows:

Decision – The Hearing Officer shall base the determination of Intentional Program Violation on clear and convincing evidence that demonstrates that the defendant committed, and intended to commit, an Intentional Program Violation as defined in Section 740.11 of this Chapter. The Hearing Officer shall weigh the evidence and testimony presented and render a decision based solely on proper evidence given at the hearing. In rendering a decision, the Hearing Officer shall consider all applicable policies of the Department, state and federal statutes, rules or regulations, and court orders. The decision shall include reference to all pertinent law or policy. If the Hearing Officer rules that the defendant committed an Intentional Program Violation, he or she will include the length and the beginning date of the disqualification penalty.

### **VIII. CONCLUSIONS OF LAW:**

- 1) 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 SNAP 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 reveals that the Defendant initially made a false statement and withheld information concerning her employment at her September 22, 2006 application for SNAP benefits. Furthermore, the Defendant demonstrated intent to mislead the Department by making additional false statements and withholding employment information at subsequent SNAP benefit recertifications in November 2007, April 2008, November 2008, April 2009 and October 2009. The evidence is clear that the Defendant was employed with [REDACTED] and received \$1340.50 in total income in September 2006, prior to her application for SNAP benefits. Additionally, the evidence is clear that the Defendant maintained employment with various employers and received income in the months during and prior to her subsequent SNAP benefit recertifications. The result of such willful misrepresentation at her application

and recertification for SNAP benefits was an overpayment in SNAP benefits for which the Defendant was ineligible to receive.

- 4) In accordance with SNAP policy and regulations, an Intentional Program Violation has been committed and a disqualification penalty must be applied. The disqualification for a first 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 August 1, 2011 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 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 July, 2011.**

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**Eric L. Phillips**  
**State Hearing Officer**