



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

Earl Ray Tomblin  
Governor

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

September 21, 2011

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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 September 20, 2011, for the purpose of determining whether 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 [SNAP] Act, the SNAP Regulations, or any State statute relating 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 submitted at the hearing showed that you intentionally provided false information about your household's circumstances 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 the determination that you committed an Intentional Program Violation. Your penalty begins November 1, 2011.

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**

**IN RE:     -----,**

**Defendant,**

**v.**

**ACTION NO.: 11-BOR-1665**

**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 Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This hearing was convened on September 20, 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:**

-----, Defendant  
Jennifer Butcher, Department Representative

It should be noted that the hearing was conducted via telephone conference call.

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 the Department's computer system dated July 26, 2011
- D-2 West Virginia Income Maintenance Manual §1.2,E
- D-3 Code of Federal Regulations 7 CFR 273.16
- D-4 Application form and Rights and Responsibilities form dated December 17, 2010, also Online self-completed SNAP and Low Income Energy Assistance applications dated December 9, 2010 with supporting documentation
- D-5 Self-completed application form and Rights and Responsibilities form dated April 18, 2011 with supporting documentation including unemployment compensation income
- D-6 West Virginia Income Maintenance Manual §2.2.B
- D-7 West Virginia Income Maintenance Manual §2.2.B.1
- D-8 West Virginia Income Maintenance Manual §2.2
- D-9 [SNAP] Claim Determination forms
- D-10 West Virginia Income Maintenance Manual §20.6
- D-11 Notification letters to Defendant dated July 26, 2011
- D-12 West Virginia Income Maintenance Manual §20.2.C.2
- D-13 West Virginia Income Maintenance Manual §20.2
- D-14 West Virginia Income Maintenance Manual §20.2.F.2
- D-15 Unemployment Compensation address verification and Department's written closing summary

**Claimant's Exhibits:**

None

## **VII. FINDINGS OF FACT:**

- 1) A request for an Administrative Disqualification Hearing, hereinafter ADH, was received by the Board of Review from the Department of Health and Human Resources, hereinafter Department, on August 9, 2011. The Department contends that the Defendant has committed an Intentional Program Violation, hereinafter IPV, and made a fraudulent statement or misrepresentation regarding her household income in order to receive SNAP, and is recommending that she be disqualified from participation in SNAP for a period of one (1) year.
- 2) The Department contends that the Defendant intentionally reported incorrect income for her SNAP household by withholding the fact that a member of her SNAP household, [REDACTED] received unemployment compensation benefits and/or monies from his father.
- 3) The Department presented evidence to show that the Defendant completed a SNAP application interview (D-4) on December 17, 2010, at the [REDACTED] County, West Virginia, Department of Health and Human Resources office located in [REDACTED] West Virginia. The evidence (D-4) shows that the Defendant also previously self-completed an online application on December 9, 2010. The signature page for the December 9, 2010, application was returned to the Department on December 15, 2010. The Defendant reported during the completion of these applications that she is employed with [REDACTED] and also verified her income. She also reported that she receives monies from rental property, and that her child receives Supplemental Security Income (SSI). She reported that -----is a member of her SNAP household, and that he purchases and prepares meals with her for SNAP purposes. She reported that he is "not related" to her or any of her other household members.
- 4) She signed the December 2010 applications (D-4) indicating she understood her responsibility to report accurate and truthful information and the penalties for failure to do so. She did not report any income for -----; however, she reported on the December 9, 2010, self-completed application that -----was responsible for and actually paying child support in the amount of one thousand fifty-eight dollars (\$1058.00) monthly for two children outside the home. This information is not found on the December 17, 2010, application completed during the face-to-face application interview.
- 5) Additional evidence shows (D-5) that the Defendant self-completed a SNAP application on April 20, 2011, at which time she reported her income from [REDACTED] and her child's SSI income. She reported that -----is a member of her SNAP household and that he is paying court ordered child support; she reported that he paid fifty dollars (\$50.00) for April and May 2011, and five hundred thirty-two dollars (\$532.00) for February 2011.
- 6) The Department subsequently verified (D-5) that -----had been receiving unemployment compensation payments since December 6, 2010 in the amount of one hundred seventy dollars (\$170.00) weekly paid bi-weekly to him. The Defendant never reported this income.

- 7) The Defendant testified during the hearing that she was not aware that -----was receiving the unemployment compensation payments because he received all his mail at his father's address and he never informed of that he received this income.
- 8) The Department's records show (D-15) that -----received his unemployment compensation correspondence at an address other than the Defendant's.
- 9) On cross-examination, when asked by the Department to explain how -----was able to pay child support when he reportedly had no income, the Defendant stated that she understood that -----'s father was giving him monies at times. This income was also not reported by the Defendant at any time.
- 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 [SNAP] Act of 1977, [SNAP] regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of [SNAP].

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 IPV 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 [SNAP] Act, the SNAP Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt or possession of SNAP benefits.
- 13) Common Chapters Manual 700, Appendix A, Section G, states that the State Hearing Officer shall base the determination of IPV on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, an IPV as defined in Section B of this Appendix.
- 14) 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 SNAP state that a SNAP 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 IPV.
- 3) The Defendant clearly was aware of her responsibility to report truthful and accurate information and the penalties involved for failing to do so. She read and signed several applications and Rights and Responsibilities forms during the period in question which clearly informed her of these responsibilities.
- 4) The evidence supports that the Defendant intentionally withheld information about -----'s income. Although it is conceivable that she may not have been aware that -----was receiving unemployment compensation because he received correspondence about those benefits at another address, it is clear that the Defendant was aware that -----was receiving monies from his father and she intentionally did not report this income. She stated during the hearing that -----was receiving monies from his father at times. She offered this information as an explanation when asked to explain how he was paying child support during the period in question with no income.
- 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 income.

#### **IX. DECISION:**

The Agency's proposal to apply a one (1) year Food Stamp disqualification penalty is **upheld**. The penalty will begin November 1, 2011.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 21<sup>st</sup> Day of September, 2011.**

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**Cheryl Henson  
State Hearing Officer**