



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241**

**Earl Ray Tomblin
Governor**

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

March 8, 2011

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your Supplemental Nutrition Assistance Program (SNAP) Administrative Disqualification Hearing held February 16, 2011 to determine 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.

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, 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 Section 20.2 and Code of Federal Regulations-7 CFR Section 273.16)

Information submitted at the hearing reveals that you withheld information about your husband's income, resulting in an incorrect determination of your SNAP allotment.

It is the decision of the State Hearing Officer that you committed an Intentional Program Violation and a disqualification penalty will be applied.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Rebecca Pancake, Repayment Investigator, DHHR

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

-----,

Defendant,

v.

Action Number: 10-BOR-2381

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

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 on February 16, 2011 in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources (WVDHHR).

All persons giving testimony were placed under oath.

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 an EBT card to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

III. PARTICIPANTS:

Rebecca Pancake, State Repayment Investigator, WVDHHR

Presiding at the hearing was Pamela L. Hinzman, State Hearing Officer and a member of the State Board of Review.

It should be noted that notice of the hearing was mailed to the Defendant on January 5, 2011, however the Defendant failed to appear.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Defendant committed an Intentional Program Violation and should be disqualified from participation in the Supplemental Nutrition Assistance Program for a period of one (1) year.

V. APPLICABLE POLICY:

7 CFR Section 273.16 USDA Code of Federal Regulations

WVDHHR Common Chapters Manual Section 740.11.D

West Virginia Income Maintenance Manual Sections 1.2.E, 9.1A, 10.3EE, 20.2 and 20.6

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Combined Application and Review Form signed by Defendant on March 22, 2010
- D-2 Rights and Responsibilities signed by Defendant on March 22, 2010
- D-3 Information from the Bureau of Child Support Enforcement
- D-4 Case comments
- D-5 WVDHHR Division of Quality Control Report on WV WORKS Error
- D-6 Employee Wage Data
- D-7 [REDACTED] Inc. Payroll Register
- D-8 Food Stamp Claim Determination Form (April 2010-May 2010) and Food Stamp Allotment Determination sheets
- D-9 Notification of Intent to Disqualify dated November 30, 2010
- D-10 7 CFR Section 273.16 USDA Code of Federal Regulations and West Virginia Income Maintenance Manual Sections 1.2E, 2.2B, 20.1, 20.2 and 20.6

VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from State Repayment Investigator Rebecca Pancake on December 8, 2010. The Repayment Investigator contends that the Defendant committed an Intentional Program Violation and recommends that the Defendant be disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, for a period of one (1) year.
- 2) Information submitted by the Department indicates that the Defendant completed a SNAP redetermination on March 22, 2010, signing a Combined Application and Review Form with associated Rights and Responsibilities (D-1 and D-2). The Defendant's signature is located on Page 13 of the review form, attesting that she had provided complete and truthful information to the Department. At that time, the Defendant reported zero household income.

- 3) On April 13, 2010, the Department's Bureau for Child Support Enforcement received information that the Claimant's husband, -----, was employed. This information is recorded in Exhibit D-3.
- 4) On October 25, 2010, the Repayment Investigator received a WVDHHR Division of Quality Control Report on WV WORKS Error (D-5) which indicated that ----- was employed by [REDACTED] Inc. from March 10, 2010 through May 29, 2010. Information concerning earnings from [REDACTED] Inc. is included in Exhibits D-6 and D-7.
- 5) The Repayment Investigator confirmed that the Defendant's husband received his first paycheck from [REDACTED] on March 19, 2010 and the Defendant failed to report the income during her SNAP redetermination. This resulted in a \$1,439 over issuance of SNAP benefits for April 2010-May 2010, according to Exhibit D-8.
- 6) West Virginia Income Maintenance Manual Section 1.2.E (D-10) states that the client's responsibility is to provide information about his/her circumstances so the worker is able to make a correct decision about his/her eligibility.
- 7) West Virginia Income Maintenance Manual Section 10.3EE states that wages are counted as earned income for the SNAP.
- 8) West Virginia Income Maintenance Manual Section 20.2 (D-10):

When an AG (Assistance Group) has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation or Intentional Program Violation claim. The claim is the difference between the allotment the client received and the allotment he should have received.

- 9) West Virginia Income Maintenance Manual Section 20.2.2 (D-10):

IPV's [sic] include making false or misleading statements, misrepresentations, concealing or withholding information, and committing any act that violates the Food Stamp Act of 1977, SNAP regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of SNAP benefits.

Once an IPV (Intentional Program Violation) is established a disqualification penalty is imposed on the AG (Assistance Group) members who committed the IPV.

The penalties are as follows: (Section 9.1A, 2, h) 1st Offense: 1 year (Disqualification).

- 10) WVDHHR Common Chapters Manual Section 740.11.D 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.

VIII. CONCLUSIONS OF LAW:

- 1) Policy states that when an Assistance Group has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation or Intentional Program Violation claim.
- 2) If it is determined that an Intentional Program Violation has been committed, an appropriate disqualification penalty is imposed on the Assistance Group.
- 3) Evidence reveals that the Defendant failed to report her husband's wages during her March 22, 2010 SNAP redetermination, although he began work with [REDACTED] on March 10, 2010 and received his first paycheck on March 19, 2010.
- 4) The Defendant falsely reported her household income and, as a result, received SNAP benefits to which she was not entitled. Therefore, the Department is correct in its proposal to impose an Intentional Program Violation.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's proposal to impose an Intentional Program Violation penalty. The penalty period will begin in May 2011.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 8th Day of March, 2011.

**Pamela L. Hinzman
State Hearing Officer**