



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Earl Ray Tomblin
Governor

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

March 22, 2011

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 3, 2011 for the purpose of determining whether or not an Intentional Program Violation occurred.

In arriving at a decision, the State Hearings 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 (SNAP) 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 (WV Income Maintenance Manual § 20.2 C(2) and 7 CFR Section 273.16 (c)).

The information submitted at your hearing revealed that you made a false statement at your November 2009 SNAP application and subsequent reviews by reporting your household's only income as Social Security for your daughter, when in fact you had been receiving Child Support arrearages since May 2009.

It is the decision of the State Hearings Officer to **Uphold** the proposal of the Department to impose an Intentional Program Violation against you effective May 2011.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

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

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

-----,

Defendant

v.

Action Number: 10-BOR-2480

**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 concluded on March 3, 2011 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.

II. PROGRAM PURPOSE:

The Program entitled Supplemental Nutrition Assistance Program (SNAP) is administered by the West Virginia Department of Health & Human Resources.

The purpose of 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 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:

Christine Allen, Repayment Investigator

Presiding at the Hearing was Kristi Logan , State Hearing Officer and a member of the Board of Review.

This hearing was held by videoconference.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not Defendant committed an Intentional Program Violation.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 1.2 E, 9.1 A, and 10.3 N
Code of Federal Regulations – 7 CFR §273.16

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Sum-----
- D-2 SNAP Claim Determination Form
- D-3 SNAP Issuance Screen (IQFS) from RAPIDS Computer System
- D-4 SNAP Allotment Determination Screen (EFAD) from RAPIDS Computer System
- D-5 SNAP Claim Calculation Sheet
- D-6 Case Members History Screen (AQCM) from RAPIDS Computer System
- D-7 Case Comments (CMCC) from RAPIDS Computer System
- D-8 Disbursements Screen (TRDI) from OSCAR Computer System
- D-9 Ledger Screens (LEDG) from OSCAR Computer System
- D-10 School Clothing Allowance Application dated July 25, 2010
- D-11 Combined Application and Review Form dated May 4, 2010
- D-12 Rights and Responsibilities Form dated May 4, 2010
- D-13 Repayment Notification Letters dated December 15, 2010 and December 7, 2010
- D-14 Notification of Intent to Disqualify dated December 7, 2010
- D-15 WV Income Maintenance Manual § 1.2 E
- D-16 WV Income Maintenance Manual § 10.3 N
- D-17 WV Income Maintenance Manual § 20
- D-18 Code of Federal Regulations – 7 CFR §273.16

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from Department of Health and Human Resources' Repayment Investigator, Christine Allen on January 19, 2011. The Department contends that Defendant has committed an Intentional Program Violation (IPV) and is recommending that she be disqualified from participation in SNAP for 12 months.

- 2) Defendant was notified of the hearing by letter sent by this Hearing Officer on January 20, 2011. Defendant failed to appear at the hearing or provide good cause for her failure to do so. In accordance with 7 CFR §273.16(e)(4) and Common Chapters Manual §740.20, the hearing was held in Defendant's absence.
- 3) Defendant applied for SNAP on November 6, 2009. Defendant reported to her caseworker that her household's only income was Social Security Survivors' Benefits for her daughter, ----- . SNAP benefits were approved based on the information provided (D-1 and D-7).
- 4) Defendant re-applied for SNAP on May 4, 2010, after her case closed for lack of review. Defendant reported only Social Security for ----- as the household's income (D-1, D-7 and D-11).

A School Clothing Application was submitted to the local office on July 26, 2010. Defendant indicated on the application that her income consisted of Social Security for ----- (D-1, D-7 and D-10).

- 5) Defendant completed another SNAP re-application on November 8, 2010. At that time, it was discovered that Defendant had been receiving Child Support arrearages since May 2009. The arrearages were the result of a [REDACTED] court order with the first payment issued to Defendant on May 5, 2009. When Defendant applied for SNAP in November 2009, the balance of arrearages owed to Defendant was \$20,751 (D-1, D-7, D-8 and D-9).
- 6) The Department contends Defendant intentionally withheld information regarding her household's income by not reporting the Child Support arrearages at her SNAP application in November 2009 and subsequent reviews and re-applications. The result of the misrepresentation was an overpayment of \$1372 issued for which Defendant was not eligible for.
- 7) WV Income Maintenance Manual § 1.2 E 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. When the client is not able to provide the required verification, the Worker must assist him. The client must be instructed that his failure to fulfill his obligation may result in one or more of the following actions:

- Denial of application
- Closure of the active Assistance Group (AG)
- Removal of the individual from the AG
- Repayment of benefits
- Reduction in benefits

- 8) WV Income Maintenance Manual § 9.1 A(2)h states:

Persons who have been found guilty of an Intentional Program Violation (IPV) are disqualified [from SNAP] as follows:

- 1st offense: 1 year
- 2nd offense: 2 years
- 3rd offense: Permanent

- 9) WV Income Maintenance Manual § 10.3 N(2) states:

Child Support Arrearages (includes income tax intercepts): Counts as unearned income for SNAP.

- 10) Code of Federal Regulations- 7 CFR § 273.16 states:

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 [SNAP] Act, the Food Stamp Program Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt or possession of Food Stamp coupons.

VIII. CONCLUSIONS OF LAW:

- 1) In order for an Intentional Program Violation to be established, it must be shown by clear and convincing evidence that the Defendant intentionally made a false or misleading statement or withheld or concealed facts from the Department.
- 2) The information submitted indicated Defendant has been receiving regular Child Support arrearages since its onset in May 2009. Defendant made a false statement at her SNAP application in November 2009, and subsequent reviews, by reporting her household's sole income as Social Security Survivors' Benefits for her daughter.
- 3) The result of Defendant's misrepresentation was an overpayment of SNAP benefits issued for which Defendant was not entitled to receive.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to impose an Intentional Program Violation against Defendant effective May 2011.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 22nd day of March 2011.

**Kristi Logan
State Hearing Officer
Member, Board of Review**