



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

Earl Ray Tomblin  
Governor

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

March 24, 2011

-----and -----

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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 March 3, 2011. The purpose of this hearing was to determine whether or not you both 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 both -----and ----- intentionally withheld information concerning the receipt of unemployment compensation income, to receive benefits for which they were not entitled.

It is the decision of the State Hearing Officer to Uphold the proposal of the Department to implement a 12 month Intentional Program Violation against both -----and -----.

Sincerely,

Eric Phillips  
State Hearing Officer  
Member, State Board of Review

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

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-----,

**V.**

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

## DECISION OF STATE HEARING OFFICER

This is a report of the State Hearing Officer resulting from a fair hearing for ----- and -----.

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 fair hearing was convened on March 3, 2011.

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.

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 June 12, 2009    |
| D-2  | Combined Application and Review Form with associated Rights and Responsibilities dated March 15, 2010   |
| D-3  | Notice of Decision dated March 16, 2010   |
| D-4  | State of [REDACTED] Division of Unemployment Insurance Suspension of Payment Notice dated July 12, 2010 |
| D-5  | Computer printout of State of Maryland Automated Benefits   |
| D-6  | Food Stamp Claim Determination  |
| D-7  | Cash Assistance Claim Determination   |
| D-8  | Notification of Intent to Disqualify dated January 12, 2011   |
| D-9  | Waiver of Administrative Disqualification Hearing   |
| D-10 | Request for an Administrative Disqualification Hearing  |
| D-11 | Notification of Intent to Disqualify dated January 18, 2011   |
| D-12 | West Virginia Income Maintenance Manual Chapter 1.2, 1.4, 2.2, 9.1                                      |
| D-13 | West Virginia Income Maintenance Manual Chapter 20.2 and Common Chapters 740                            |
| D-14 | Rights and Responsibilities dated January 30, 2009 and October 30, 2008                                 |

## VII. FINDINGS OF FACT:

- 1) The Board of Review received a request for an Administrative Disqualification Hearing on January 31, 2011. The Department contends that both Defendants, -----and -----, committed and Intentional Program Violation (IPV) and recommends that the Defendants be disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP) for a twelve (12) month period.
- 2) On February 1, 2011, a Notice of Scheduled Hearing was mailed to each Defendant, via first class mail delivery to a corresponding address of -----, -----.
- 3) Such notices document in pertinent part:

It is very important that you be at this hearing. If you are not there, the decision will be based solely on the information presented by the Department. However,

if you can show good cause for failure to appear within 10 days from the date of your scheduled hearing, you may be granted a new hearing.

Additionally, each document provides notice that the hearing may be rescheduled if either Defendant contacted the State Hearing Officer at least ten (10) days prior to the scheduled hearing date. It shall be noted that neither notice was returned to the State Hearing Officer as undeliverable.

- 3) Each hearing was convened as scheduled at 11:30 A.M and 12:00 P.M., on the requested date, as of 12:15 P.M., both Defendants failed to appear. As set forth in the Code of Federal Regulations found at § 7 CFR 273.16 (e) (4) and West Virginia Department of Health and Human Resources Common Chapters Manual Chapter 740.20, the hearing was conducted without the Defendants in attendance. Neither Defendant submitted good cause information concerning their failure to appear within ten (10) days after the scheduled hearing.
- 4) On March 4, 2011, the State Hearing Officer received a voicemail message from Defendant,---, from March 3, 2011 at 8:28 A.M. stating she would be unable to attend the scheduled hearing. -----related in her message that she did not know she was to call ten days prior to the scheduled date to reschedule the hearing.
- 5) On January 12, 2011, the Department issued -----, Exhibit D-8, Notification of Intent to Disqualify, indicating that the Department had reason to believe that -----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 withholding ----- unemployment income information.

In response to the Department's notice, -----signed and completed Exhibit D-9, Waiver of Administrative Disqualification Hearing choosing her right to have an administrative hearing on the issue.

- 6) On January 18, 2011, the Department issued ----- Exhibit D-11, Notification of Intent to Disqualify, indicating that the Department had reason to believe that ----- 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 withholding his unemployment income information.

Lori Woodward, Repayment Investigator testified that the Defendants were not issued Notices of Intent to Disqualify at the same time because -----had reported ----- out of her household in August, 2010. Ms. Woodward indicated that the Department later discovered that ----- had been residing in the same household with -----, effective December, 2010 and issued a separate notice.

- 7) On June 12, 2009, the Defendants completed Exhibit D-1, Combined Application and Review Form. The purpose of this application was to add ----- to the household for

SNAP assistance and to complete an adult Medicaid application. Exhibit D-1 documents that the Defendants reported no income for ----- at the application, but indicated that ----- started employment with the [REDACTED] Inn. The Defendants signed the exhibit and acknowledged that complete and truthful information had been supplied to the Department.

- 8) On March 15, 2010, -----completed Exhibit D-2, Combined Application and Review Form, as part of a reapplication for SNAP benefits. Exhibit D-2 documents that ----- reported no income available to the household and indicated that ----- was completing odd jobs for the landlord, in lieu of a rent payment. On March 16, 2010, the Department issued the Defendants Exhibit D-3, Notice of Decision documenting that the household's reapplication had been approved effective March 15, 2010.
- 9) Ms. Woodward testified that the Defendants applied for WV WORKS cash assistance with the Department on July 19, 2010. On this date, the Defendants presented Exhibit D-4, State of Maryland Division of Unemployment Insurance Suspension of Payment Notice dated July 12, 2010. Exhibit D-4, which is addressed to -----, documents in pertinent part:

You have been receiving unemployment insurance benefits under the Emergency Unemployment Compensation Program.

The United States Congress has not yet reauthorized the Emergency Unemployment Compensation (EUC) Program which expired the beginning of June 2010. The expiration of the EUC Program affects the continued payment of EUC claims. The United States Congress is still currently considering another extension of the ECU Program; however, legislation has not been passed.

The EUC law is based on three tiers of benefits: 20 weeks (Tier 1), 14 weeks (Tier 2), and 13 weeks (Tier 3) for a total of 47 weeks. Each tier must be exhausted before moving on to the next tier. Under the current law, EUC claimant may only receive the number of weeks of benefits in their current tier.

You are receiving this letter because you have received 20 weeks of EUC benefits or 34 weeks of EUC benefits. Under the law, we cannot pay you any additional EUC benefits at this time. Although EUC payments may be suspended at this time, you should continue to file your continued claims.

- 10) Ms. Woodward presented Exhibit D-5, Computer printout of State of [REDACTED] Automated Benefits which documents -----'s receipt of unemployment compensation benefits effective June 3, 2009 through October, 2010. This exhibit documents that ----- received unemployment compensation on a weekly basis for the documented timeframe.
- 11) Ms. Woodward presented Exhibit D-6, Food Stamp Claim Determination Worksheet to establish that by withholding income information concerning -----'s receipt of unemployment compensation benefits, an overpayment of SNAP benefits was issued to the Defendants in the amount of \$662.00 for the months of July 2009 through August 2009 and \$1294.00 for the period of March 15, 2010 through September 2010. Ms. Woodward testified that the total over issuance of SNAP benefits to the household was \$1956.00. Additionally, Ms. Woodward submitted Exhibit D-7, Cash Assistance Claim Determination Worksheet to

establish that by withholding information concerning -----'s receipt of unemployment compensation, an overpayment of cash assistance was issued to the Defendants in the amount of \$476.00 for the months of July 2010 through August 2010. Ms. Woodward testified that the Defendants were ineligible to receive cash assistance due to the unreported unemployment compensation benefits.

- 12) 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.

- 13) 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

- 14) 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.

- 15) 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.
- 4) Evidence presented during the Administrative Disqualification Hearing is clear that the Defendants intentionally withheld information concerning the receipt of -----'s unemployment compensation on multiple occasions. The evidence is clear that ----- began receiving unemployment compensation benefits on June 3, 2009, nine days prior to the June 12, 2009.
- 5) office visit to add ----- to household and complete a subsequent Medicaid application. At the office visit, the Defendants intentionally withheld information concerning the receipt of such income and continued to receive the income until October, 2010. Additionally, -----withheld information concerning the unemployment compensation at a SNAP reapplication on March 15, 2010, in which she related there was no income available to the household. Furthermore, the evidence clearly demonstrates that the Defendants intended to mislead the Department, as they both applied for cash assistance in July, 2010 and reported no unemployment compensation income available to the household, which resulted in an over issuance of cash assistance in which the household was ineligible to receive.
- 4) In accordance with SNAP policy and regulations, an Intentional Program Violation has been committed by the Defendants and a disqualification penalty must be applied. The disqualification for a first offense is one (1) year.
- 5) The Defendants are the only assistance group members subject to said disqualification penalty. The one year disqualification penalty will begin May 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 for the Defendants 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 March, 2011.**

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**Eric L. Phillips  
State Hearing Officer**