



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

May 26, 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 held May 26, 2011 for the purpose of determining whether or not 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 Food Stamp 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 an Intentional Program Violation. Your penalty begins July 1, 2011.

Sincerely,

Cheryl Henson  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review/Natasha Jemerison, Kanawha DHHR

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

-----,

**Defendant**

**v.**

**Action Number: 11-BOR-457**

**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 the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This hearing was convened on May 26, 2011.

It should be noted that this hearing was previously scheduled for March 15, 2011 and April 14, 2011, but was rescheduled due to various notification issues.

**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:**

Natasha Jemerison, Department Representative  
Christine Saunders, Department witness

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 Department's computer system dated January 6, 2011
- D-2 West Virginia Income Maintenance Manual §1.2.E
- D-3 Food Stamp Claim Determination forms
- D-4 Code of Federal Regulations §7 CFR273.16
- D-5 Application dated September 10, 2009
- D-6 Rights and Responsibilities form signed September 10, 2009
- D-7 Application dated March 30, 2010
- D-8 Rights and Responsibilities form signed March 30, 2010
- D-9 Verification of marriage and income, Final Court Order from Family Court of [REDACTED] County, West Virginia, sworn written statement dated September 1, 2010
- D-10 West Virginia Income Maintenance Manual §20.6.A
- D-11 Notification letters dated January 7, 2011
- D-12 West Virginia Income Maintenance Manual §2.2 and 20.2

**Claimant's Exhibits:**

None

**VII. FINDINGS OF FACT:**

- 1) A request for an Administrative Disqualification Hearing (ADH) was received by the Board of Review from the Department of Health and Human Resources (Department) on January 26, 2011. The Department contends that the Defendant has committed an Intentional Program Violation (IPV) and made a fraudulent statement or misrepresentation regarding her household composition in order to receive SNAP, and is recommending that she be disqualified from participation in SNAP for a period of one (1) year.
- 2) Notification of the May 26, 2011 hearing was mailed to the Defendant on or about April 14, 2011 via first class mail delivery, as the Defendant is a current recipient of benefits through the Department and resides at an address known to be good by the Department.

- 3) The hearing was convened as scheduled at 9:00 a.m., and as of 9:24 a.m. the Defendant failed to appear or notify the Board of Review of any conflict preventing her from appearing. 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 or about January 7, 2011, the Department sent the Defendant a Notification of Intent to Disqualify (D-11) form, indicating that it had reason to believe she intentionally violated a SNAP rule by not reporting her marriage to -----or his income.
- 5) The Department presented evidence to show that the Defendant completed a SNAP application (D-5) on September 10, 2009, at which time she did not report that she was married to ----- nor did she report his income from employment. She also did not report that he lived in her household. She indicated on the application that she was “divorced”. She signed the application indicating she understood her responsibility to report accurate and truthful information. She also signed the Rights and Responsibilities form (D-6) indicating she understood her responsibility to report accurate and truthful information and the penalties for failure to do so.
- 6) Additional evidence submitted (D-7) shows that the Defendant completed another SNAP application interview on March 30, 2010, at which time she again did not report that she was married to ----- nor did she report his income from employment or that he lived in her household. She indicated on the application that she was divorced. She signed the application form indicating she understood her responsibility to report accurate and truthful information. She also signed the Rights and Responsibilities form (D-8) indicating she understood her responsibility to report accurate and truthful information and the penalties for failure to do so.
- 7) The Department presented evidence (D-9) in the form of a marriage record from ----- County, West Virginia, that supports that the Defendant married -----on September 5, 2009, five days before she completed the September 10, 2009 application interview with the Department. This document also shows that the marriage license was issued on August 11, 2009, and that both the Defendant and -----indicated at that time that they both resided at -----.
- 8) Additional evidence (D-9) shows that -----is employed with ----- County Schools and that he receives earned income twice monthly. The verification shows that during the month of September 2009, -----earned three thousand five hundred twenty seven dollars and thirty-four cents (\$3527.34) for work performed for this employer.
- 9) Additional evidence (D-9) in the form of a Final Order from the Family Court of ----- County, West Virginia, provides that the Defendant and -----last cohabitated as husband and wife on or about the thirteenth (13<sup>th</sup>) of September, 2010, and that they have not since cohabitated despite continuing to reside in the same residence.
- 10) Additional evidence (D-9) in the form of a sworn written statement from a neighbor of the Defendant, dated September 1, 2010, shows that the neighbor purported that the Defendant and -----live together at -----, Sissonville, West Virginia. The neighbor also attested that he is aware that -----works for both the “school board” as a possible truant officer and for “-----”

█. The neighbor stated that the couple have lived at the residence for about two (2) years. The neighbor indicated that he had recently spoken with -----and that he appeared depressed.

- 11) 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.

- 12) 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 Food Stamp Act of 1977, Food Stamp regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of Food Stamps.

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.

- 13) Common Chapters Manual 700, Appendix A, Section B, 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.
- 14) Common Chapters Manual 700, Appendix A, Section G, states that the State Hearing Officer shall base the determination of Intentional Program Violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, an Intentional Program Violation as defined in Section B of this Appendix.
- 15) The Defendant signed numerous Rights and Responsibilities forms thereby acknowledging the following pertinent responsibilities:

4) I understand if I am found (by court action or an administrative disqualification hearing) to have committed an act of intentional program violation, I will not receive SNAP benefits as follows: First Offense – one year; Second Offense – two years; Third Offense – permanently.

48) I also understand that if I give incorrect or false information or if I fail to report changes that I am required to report, I may be required to repay any benefits I receive and I may also be prosecuted for fraud. I also understand that any person who obtains or attempts to obtain benefits from DHHR by means of a willfully false statement or misrepresentation or by impersonation or any other fraudulent device can be charged with fraud.

49) 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.

16) 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 Intentional Program Violation.
- 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 both the application and Rights and Responsibilities forms during the application process on September 10, 2009 and again on March 30, 2010 which clearly informed her of these responsibilities.
- 4) The evidence is also clear in that the Defendant intentionally reported false information about her household composition in order to receive SNAP. She withheld information about her marriage, household composition, and household earned income at both her September 10, 2009 and March 30, 2010 application interviews. The evidence clearly shows that the Defendant was married and living with -----during both those timeframes. As a result of the information being withheld, -----earned income was never considered in determining her SNAP eligibility.
- 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 July 1, 2011.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 26<sup>th</sup> Day of May, 2011.**

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**Cheryl Henson  
State Hearing Officer**