



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

April 22, 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 April 21, 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 June 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-679**

**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, and was convened on April 22, 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:**

Natasha Jemerison, Department representative

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 December 20, 2010
- 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 May 7, 2010
- D-6 Rights and Responsibilities form signed May 7, 2010
- D-7 Income verification from Moore Security Company dated January 6, 2011
- D-8 West Virginia Income Maintenance Manual Section 2.2
- D-9 West Virginia Income Maintenance Manual Section 20.6
- D-10 Notification letters dated January 21, 2011

##### **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 March 4, 2011. The Department contends that the Defendant has committed an Intentional Program Violation (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) Notification of the April 21, 2011 hearing was mailed to the Defendant on or about March 11, 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 1:00 p.m., and as of 1:17 p.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 21, 2011 the Department sent the Defendant a Notification of Intent to Disqualify (D-10) form, indicating that it had reason to believe she intentionally violated a SNAP rule by not reporting -----in the household or his income.
- 5) The Department presented evidence to show that the Defendant completed a SNAP application (D-5) on May 7, 2010. 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 involved for failure to do so. She reported that -----was not living with her. As a result, his income was also not considered in determining the Defendant's eligibility for SNAP.
- 6) Additional evidence submitted (D-7) in the form of verification from [REDACTED] Company, shows that that -----was employed with the company from March 15, 2007 through September 15, 2010, and that he utilized the Defendant's address as his own while employed with the company. He utilized another address as well while employed with the company. Additionally, he received earnings from the company during the month of application, May 2010, in the amount of one thousand six hundred and ninety dollars (\$1690.00).
- 7) Additional evidence (D-7) was provided in the form of a sworn written statement dated September 10, 2010 from an individual who lives in the Defendant's neighborhood. In it, the individual states that the Defendant is her "sister" and that she knows the Defendant lives at Whispering Way with her husband, ----, and her son. She also stated that she believes the Defendant and ---- have been married for five (5) years, and that they have lived at "Lot 20" for three (3) or four (4) months.
- 8) Additional evidence (D-7) was provided in the form of a sworn written statement dated September 10, 2010 from an individual identifying herself as the Defendant's daughter. In it, the individual states "My mom, ----, she lives Lot #---- with my stepdad, ----, and my brother..." She added that she visits her mom "most every day" and that she attends "GED" [General Equivalency Diploma] classes every Tuesday and Thursday with her at the [REDACTED] in [REDACTED] West Virginia. She stated that her mother transports her to the class. She added that the Defendant lived with ---- at Lot Fifty (50) for a couple of years and then moved to Lot Twenty (20) about three (3) or four (4) months ago.
- 9) 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.

- 10) 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.

- 11) 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.
- 12) 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.
- 13) 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.

- 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 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 May 7, 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 reported during the May 7, 2010 SNAP application interview that her husband, -----, did not live in her household. The evidence shows that ----- was living with the Defendant at the time of this application. As a result of her withholding this information, -----'s income was not considered when determining the Defendant's 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 composition.

**IX. DECISION:**

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

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 22<sup>nd</sup> Day of April, 2011.**

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**Cheryl Henson  
State Hearing Officer**