



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
2699 Park Avenue, Suite 100
Huntington, WV 25704**

**Earl Ray Tomblin
Governor**

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

August 30, 2011

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on the SNAP Administrative Disqualification Hearing held August 19, 2011, for the purpose of determining whether an Intentional Program Violation (IPV) was committed by you.

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, formerly known as the Food Stamp Program, 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 Food Stamp Program Regulations, or any State statute relating to the use presentation, transfer, acquisition, receipt or possession of Food Stamp coupons. 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, Chapter 20.2; Code of Federal Regulations 7 CFR §273.16)

Information submitted at the hearing reveals that you intentionally concealed facts about your household composition in order to receive SNAP benefits for which you were not entitled.

It is the decision of the State Hearing Officer that an Intentional Program Violation was committed by you and a disqualification penalty of one (1) year will be applied. Your disqualification from SNAP will begin effective October 1, 2011.

Sincerely,

Todd Thornton
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Rebecca Pancake, Department Representative

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

IN RE: -----,

Defendant,

v.

ACTION NO.: 11-BOR-838

**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 August 30, 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. This hearing was convened on August 19, 2011.

II. PROGRAM PURPOSE:

The purpose of SNAP, formerly known as the Food Stamp Program, 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:

Rebecca Pancake, Department representative

Presiding at the Hearing was Todd Thornton, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Defendant committed an Intentional Program Violation (IPV) and should be disqualified for a specified period from participation in SNAP.

V. APPLICABLE POLICY:

Code of Federal Regulations, 7 CFR §273.16
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 School enrollment verification
- D-2 Signed statement to investigator, dated April 21, 2009
- D-3 SNAP claim determination sheets
- D-4 Combined Application and Review Form (CAF) dated January 3, 2005; Rights and Responsibilities form dated January 3, 2005
- D-5 West Virginia Income Maintenance Manual, Chapters 1.2.E; 20.6; 20.2; Code of Federal Regulations, 7 CFR §273.16

VII. FINDINGS OF FACT:

- 1) The Department is alleging an act of Intentional Program Violation, or IPV, in the Defendant's case, due to concealing facts regarding his household composition – specifically the presence of two children – affecting the Defendant's eligibility for SNAP, formerly known as the Food Stamp Program.
- 2) The hearing convened as scheduled at 10:00 a.m., and as of 10:15 a.m., the Defendant failed to appear. As set forth in regulations (7 CFR §273.16(e)(4)), and State Policy (West Virginia Department of Health and Human Resources Common Chapters Manual, 740.20), the hearing was conducted without the Defendant in attendance.
- 3) The Code of Federal Regulations, 7 CFR §273.16(c), defines an IPV as:
 - (c) Definition of intentional Program violation. 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 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).

- 4) The Department presented a Combined Application and Review Form (CAF) and Rights and Responsibilities form (Exhibit D-4) from a January 3, 2005 WV WORKS interview. The eligibility factors reported in this interview directly affect SNAP eligibility. These forms list the Defendant and his children as present in the household.
- 5) The Department presented school verification (Exhibit D-1), dated May 16, 2005, stating that ----- the Defendant's daughter – was a full time student at [REDACTED] Senior High School, in [REDACTED] [REDACTED] as of August 31, 2004 and at the time of verification. Additional verification from [REDACTED] Middle School, also in [REDACTED] [REDACTED] and dated May 16, 2005, stated that ----- – the Defendant's son – was enrolled from August 31, 2004 through November 30, 2004, and re-enrolled on February 8, 2005 and was enrolled at the time of verification.
- 6) The Department presented a statement (Exhibit D-2) signed by the Defendant on April 21, 2009. The statement indicated that his daughter did not live with him, and that his son lived with him “on and off.” The statement refers to the January 3, 2005 application, but does not provide clear dates for the presence or absence of his children. The document does state, “I am willing to admit that I should not of [sic] reported her in my household. I realize that the more people I have in my home the more assistance I can receive.”
- 7) The Department presented documentation (Exhibit D-3) showing the calculation of the SNAP over issuance claim resulting from incorrect household composition. A claim was determined between February 2005 and May 2005 totaling \$851.00. The Department additionally confirmed that the Defendant has no prior IPV offenses, and that the proposed IPV would be a first offense.
- 8) The West Virginia Income Maintenance Manual, Chapter 9.1.A.2.h, states:

h. Intentional Program Violation (IPV)

Persons who have been found guilty of an IPV are disqualified as follows:

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

VIII. CONCLUSIONS OF LAW:

- 1) The Department clearly established that the Defendant withheld information regarding his household composition. School verification documented that his daughter was attending school in another state during the time in question, and that his son re-enrolled in a school in another state shortly after his application. The Department additionally showed that the error resulting from this incorrect information from the Defendant resulted in a SNAP over issuance claim totaling \$851.00.
- 2) The Department also clearly established the intent of the Defendant to provide misleading information to receive SNAP benefits for which he would not have otherwise been entitled. The Defendant reported himself and his children in his household, but his daughter was not residing with him at the time. The Defendant made a statement to a Department investigator indicating he was aware that reporting additional persons in his household would result in higher SNAP benefits. The Department was correct in its determination that an IPV was committed by the Defendant.

IX. DECISION:

Intentionally withholding, concealing, or providing misleading facts to secure SNAP benefits constitutes a clear violation of the regulations. Based on the evidence presented, I find the violation intentional.

The Agency's proposal to apply a SNAP disqualification is **upheld**. The Defendant will be disqualified from participation in SNAP for a period of twelve (12) months to begin effective October 1, 2011.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ Day of August, 2011.

**Todd Thornton
State Hearing Officer**