



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
203 E. Third Avenue
Williamson, WV 25661

Earl Ray Tomblin
Governor

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

July 1, 2011

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 24, 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 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.

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 Section 20.2,C,2 and 7 CFR Section 273.16 (c)]

Information submitted at the hearing reveals that you intentionally provided false and misleading information about your household income 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 August 1, 2011.

Sincerely,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

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

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

IN RE: -----,

Defendant,

v.

Action Number: 11-BOR-860

**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 July 1, 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. The hearing was convened on May 24, 2011, at the [REDACTED] County office of the WV DHHR in [REDACTED] WV.

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:

-----, Defendant

Christine Allen, Repayment Investigator.

Presiding at the Hearing was Stephen M. Baisden, State Hearing Officer and a member of the State Board of Review.

The Hearing officer placed participants under oath at the beginning of the hearing.

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:

7 CFR §273.16 Code of Federal Regulations
Common Chapters Manual, Chapter 700
West Virginia Income Maintenance Manual: Chapter 1.2.E, Chapter 10.3.DD, Chapter 20.1 and 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- M-1 IG-BR-31 Hearing Summary.
- M-2 ES-FS-5 SNAP Claim Determination sheet.
- M-3 IQFS Screen Print from RAPIDS system showing SNAP issuance history.
- M-4 EFAD Screen Print from RAPIDS showing SNAP allotment determination for each month of SNAP benefits received by Defendant.
- M-5 ES-FS-5a SNAP calculation sheets showing corrected benefit amounts.
- M-6 AQCM Screen print from RAPIDS System showing case member history.
- M-7 CMCC Screen print from RAPIDS System showing Income Maintenance worker case comments made on January 10, 2011, in Defendant's case.
- M-8 Copy of Combined Application Form dated and signed by Defendant on January 10, 2011.
- M-9 Copy of Rights and Responsibilities forms dated and signed by Defendant on January 10, 2011.
- M-10 Copy of letter to Defendant from DHHR indicating her assistance group's SNAP reviews were completed and approved based on no reported unearned income in the household, dated January 11, 2011.
- M-11 Copy of Death Record for father of Defendant's daughter
- M-12 Copy of certified extract of benefits from Social Security Administration to Repayment Investigator verifying Defendant's payments received, dated March 10, 2011
- M-13 Copy of appointment letter (IFM-1-7d) sent to Defendant asking her to meet with Repayment Investigator on February 23, 2011, to discuss the referral.
- M-14 Copy of IFM-BR-44 Waiver of Administrative Disqualification Hearing form and IFM-BR-44a Notice of Intent to Disqualify form sent to Defendant.
- M-15 Copy of Income Maintenance Manual Chapter 1.2.E showing client responsibility for providing accurate information.
- M-16 Copy of Income Maintenance Manual Chapter 10.3.TTT showing that RSDI benefits are counted as unearned income for the SNAP program.

- M-17 Copy of Income Maintenance Manual Chapter 20.1 and 20.2 showing SNAP overpayment claims and repayment procedures.
- M-18 Copy of the Code of Federal Regulations (CFR) §273.16 showing disqualifications for Intentional Program Violations.

VII. FINDINGS OF FACT:

- 1) The Department is alleging an act of Intentional Program Violation, or IPV, in the Defendant's SNAP case because she allegedly reported during a SNAP application interview that there was no income in her SNAP assistance group, when she was receiving Social Security Retirement, Survivors, Disability Insurance (RSDI) benefits on behalf of her two daughters in the amount of \$846 per month for each child.
- 2) On January 10, 2011, Defendant appeared at the WV Department of Health and Human Resources, ██████████ County office in ██████████ WV and completed an application for SNAP benefits. She reported at this interview that her SNAP assistance group had no earned or unearned income, and her monthly SNAP allotment was calculated on this basis. (Exhibit M-4.) An Economic Service Worker (ESW) recorded on January 10, 2011, that Defendant completed the application and reported no income in her assistance group. (Exhibit M-7.) At the conclusion of the application interview, Defendant signed and dated a DFA-RFA-1, an application form which contained information she had given the worker during the interview (Exhibit M-8), including information that there was no income in her SNAP assistance group. She also signed and dated a DFA-RR-1, a Rights and Responsibilities form. (Exhibit M-9.) The application form signature page states,

I understand my responsibility to provide complete and truthful information. I have reviewed or had read to me the information contained in this automated portion of the application form and I understand the information. I understand that it is a criminal violation of federal and state law to provide false or misleading information for the purpose of receiving benefits to which I am not by law entitled. Under penalty of perjury, I certify that the statements are true and correct.

The DFA-RR-1, Rights and Responsibilities form is a list of applicants' rights and responsibilities for each program for which an applicant applies. The applicant signifies that he or she is aware of each right or responsibility by checking "Yes" or "No" at each item. Under the SNAP Program section of the form, item #4 states,

I understand if I am found (by court action or 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. In addition, I will have to repay any benefits received for which I was not eligible.

Defendant has marked "Yes" at this item.

- 3) Department's representative testified that on January 10, 2011, after Defendant's benefits had been approved, the same Economic Service Worker who took Defendant's application recorded she obtained information to indicate Defendant received unearned income in the form of RSDI benefits for each of her two children. (Exhibit M-7, second page.) Department's representative stated that the Economic Service Worker referred the matter to her on January 12, 2011.
- 4) Department's representative testified that she obtained verification the father of Defendant's children died on September 8, 2010 (Exhibit M-11), thus making the children eligible for RSDI payments. She testified that she requested and obtained a certified extract of RSDI payments Defendant received on behalf of her two children, on March 10, 2011. (Exhibit M-12.) She stated that she completed a Food Stamp [SNAP] Claim Determination form, wherein she calculated Defendant was overpaid SNAP benefits in the month of her SNAP application, February 2011, and that the amount of the overpayment was \$326. (Exhibit M-2.)
- 5) Defendant testified that at the time of her SNAP application, she thought that since her children were receiving the RSDI income and not her, she was not obligated to report it. She stated that she was sorry about the oversight and she was not trying to cheat the Department.
- 6) The Code of Federal Regulations, 7 CFR §273.16(c) (Exhibit M-18), defines an Intentional Program Violation (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 [SNAP] 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).
- 7) The West Virginia Income Maintenance Manual, Chapter 1.2.E (Exhibit M-15), 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 . . . The client must be instructed that his failure to fulfill his obligation may result in one or more of the following actions: denial of the application; closure of the active AG [assistance group]; removal of the individual from the AG; repayment of benefits; reduction in benefits.
- 8) The West Virginia Income Maintenance Manual, Chapter 10.3.TTT (Exhibit D-16) states that RSDI benefits received in a SNAP assistance group are counted as unearned income.

9) The West Virginia Income Maintenance Manual, Chapter 20.2.C.2 (Exhibit M-17), states:

IPV's include making false or misleading statements, misrepresentations, concealing or withholding information, and committing any act that violates the Food Stamp Act of 1977, Food Stamp [SNAP] regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of SNAP benefits.

10) The West Virginia Income Maintenance Manual, Chapter 20.6.A states:

A willfully false statement is one that is deliberately given, with the intent that it be accepted as true, and with the knowledge that it is false. [I]t is not essential that an affirmative representation be made. Misrepresentation may also be the suppression of what is true, as well as in the representation of what is false.

VIII. CONCLUSIONS OF LAW:

The Department has established that the Defendant made a willful (or intentional) false statement to the effect that she received no income in her SNAP assistance group during a SNAP benefits review on January 10, 2011, when she was receiving RSDI from the Social Security Administration on behalf of her two children. She signed an application form to the effect that she received no income, and she signed a Rights and Responsibilities form indicating she was aware of her responsibility to provide complete and accurate information and of the penalties for not doing so.

IX. DECISION:

Falsely reporting during a SNAP application or review that one receives no income when in fact he or she receives RSDI is 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 effective August 1, 2011.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 1st Day of July, 2011.

**Stephen M. Baisden
State Hearing Officer**