



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

July 14, 2011

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on the SNAP Administrative Disqualification Hearing held July 14, 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 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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Cassandra Burns, Department Representative

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

IN RE: -----,

Defendant,

v.

ACTION NO.: 11-BOR-885

**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 14, 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 July 14, 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:

Cassandra Burns, 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 Hearing summary
- D-2 Food Stamp Claim Determination Form
- D-3 Food Stamp Claim Calculation Sheets
- D-4 SNAP Issuance History screen print
- D-5 Food Stamp Allotment Determination screen prints
- D-6 Case Members History screen print
- D-7 Case Comments screen prints
- D-8 Income verification
- D-9 Data Exchange Response List screen print
- D-10 Income verification
- D-11 Combined Application and Review Form, dated July 15, 2010; Rights and Responsibilities form, dated July 15, 2010
- D-12 Notification of Intent to Disqualify
- D-13 Waiver of Administrative Disqualification Hearing form
- D-14 West Virginia Income Maintenance Manual, Chapter 1.2.E
- D-15 West Virginia Income Maintenance Manual, Chapter 20.1 – 20.2
- D-16 West Virginia Income Maintenance Manual, Chapter 20.6
- D-17 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 unemployment income, affecting the Defendant's eligibility for SNAP, formerly known as the Food Stamp Program.
- 2) The hearing convened as scheduled at 10:45 a.m., and as of 11:00 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 an application and rights and responsibilities form (Exhibit D-11) from a July 15, 2010 SNAP application interview. This application forms list the Defendant and his wife as present in the household, and the earned income of his wife from her employment with [REDACTED]. The form does not list any income for the Defendant.
- 5) The Department presented income verification (Exhibit D-8) showing continuous unemployment income for the Defendant from June 2010 through February 2011. The unemployment income was not counted in the calculation (Exhibit D-5) of the Defendant's SNAP benefits. Income verification (Exhibit D-10) for the Defendant's wife was presented for reference only; this income was reported and counted in the calculation of the Defendant's SNAP benefits.
- 6) The Department presented documentation (Exhibit D-2) showing the calculation of the SNAP over issuance claim resulting from incorrect household income, as well as the monthly SNAP benefit issuance history (Exhibit D-4) and calculation sheets showing corrected monthly itemized benefit amounts (Exhibit D-3) – the basis of the actual and corrected benefit columns in Exhibit D-2, respectively. Exhibit D-5 notes auxiliary SNAP benefits, clarifying actual monthly amounts. A claim was determined between July 2010 and December 2010 totaling \$414.00. The Department additionally confirmed that the Defendant has no prior IPV offenses, and that the proposed IPV would be a first offense.
- 7) 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 unearned income, directly affecting his eligibility for SNAP benefits. Documentation showed that the Defendant received unemployment income, and that this income started prior to the SNAP application in which no such income was

reported. The Department additionally showed that the error resulting from this incorrect information from the Defendant resulted in a SNAP over issuance claim totaling \$414.00.

- 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 his wife and her earnings from employment, but did not report his own unemployment income. 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 August 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 July, 2011.

Todd Thornton
State Hearing Officer