



**State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
P.O. Box 1736  
Romney, WV 26757**

**Earl Ray Tomblin  
Governor**

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

May 24, 2011

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your Supplemental Nutrition Assistance Program Administrative Disqualification Hearing held May 12, 2011. The purpose of this hearing was to determine whether or not you intentionally committed an Intentional Program Violation.

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 the Supplemental Nutrition Assistance Program is based on current policy and regulations. These regulations provide that 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. 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 which was submitted at your hearing revealed that you intentionally withheld information concerning your employment income in order to receive benefits for which you were not entitled.

It is the decision of the State Hearing Officer to Uphold the proposal of the Department to implement a 12 month Intentional Program Violation. The disqualification penalty will begin on July 1, 2011 and will run concurrently for the next 12 months.

Sincerely,

Eric Phillips  
State Hearing Officer  
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review  
Lori Woodward, Repayment Investigator

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

-----,

**Defendant,**

**v.**

**Action Number: 11-BOR-893**

**West Virginia Department of  
Health and Human Resources,**

**Respondent.**

**DECISION OF STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from a fair 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 fair hearing was convened on May 12, 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:**

-----, Defendant  
Lori Woodward, Repayment Investigator

Presiding at the hearing was Eric L. Phillips , State Hearing Officer and a member of the Board of Review.

#### **IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Defendant committed an Intentional Program Violation and should be disqualified for one year from participation in the Supplemental Nutrition Assistance Program or SNAP.

#### **V. APPLICABLE POLICY:**

Code of Federal Regulations, 7 CFR § 273.16  
Common Chapters Manual, Chapter 700  
West Virginia Income Maintenance Manual, Chapter 20.2; Chapter 9.1.A.2.h

#### **VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

##### **Department's Exhibits:**

- D-1a Computer printout of case comments dated October 24, 2008
- D-1b Computer printout of Employee Wage Data
- D-1c Combined Application and Review Form with Rights and Responsibilities dated October 24, 2008
- D-2 Employee information from [REDACTED] INC.
- D-3 Food Stamp Claim Determination
- D-4a Computer printout of Individual Participation History
- D-4b West Virginia Income Maintenance Manual Chapter 2.4
- D-5 Notification of Intent to Disqualify dated February 25, 2011
- D-6 West Virginia Income Maintenance Manual Chapter 1.2, 1.4, 2.2, 9.1
- D-7 West Virginia Income Maintenance Manual Chapter 20.2 and Common Chapters 740.11

#### **VII. FINDINGS OF FACT:**

- 1) The Board of Review received a request for an Administrative Disqualification Hearing on April 1, 2011. The Department contends that the Defendant committed an Intentional Program Violation (IPV) and recommends that the Defendant be disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP) for a twelve (12) month period.
- 2) On February 25, 2011, the Department issued the Defendant Exhibit D-5, Notification of Intent to Disqualify, indicating that the Department had reason to believe the Defendant intentionally violated a SNAP rule. This exhibit documents in pertinent part:

Based on the evidence developed through our investigation, the agency believes that ----- intentionally violated the food stamp program by reporting no income on 10/24/08 FS review while she was working at [REDACTED]

- 3) Ms. Lori Woodward, Repayment Investigator for the Department testified that the Defendant completed a recertification for SNAP benefits on October 24, 2008 with Larry Fisher, Economic Service Worker (ESW). Exhibit D-1c, Combined Application and Review Form with Rights and Responsibilities documents that the Defendant reported no employment

income at the time of recertification. The Defendant completed and signed the Rights and Responsibilities portion Exhibit D-1c, specifically acknowledging question #49 which states:

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.

During the hearing, the Defendant acknowledged her signatures on the exhibit and Ms. Woodward acknowledged Mr. Fisher's signature as a representative for the Department.

Ms. Woodward stated that during the recertification, the ESW conducted a data exchange wage match (Exhibit D-1b) on the Defendant, which revealed the Defendant's income from [REDACTED] INC. from earlier in the year. The exhibit, which was printed March 29, 2011 for the purpose of the hearing, documents the Defendant's wages for the third quarter of 2008 as \$458.28 and her wages for the 4<sup>th</sup> quarter of 2008 as \$3145.96.

Mr. Fisher documented case comments concerning the completion of the recertification for the Defendant. Exhibit D-1a documents in pertinent part:

DXRL [data exchange] showed income earlier this year, but she states not working currently. Spoke with EW1934 & she informed that the income was already reported & currently being reviewed.

Ms. Woodward testified that she understood the exhibit to read that the income obtained by the previous ESW, concerned income received by the Defendant from earlier in 2008.

- 4) Ms. Woodward testified that an investigation of the Defendant's income revealed that she was currently employed during the time of the recertification. Exhibit D-2, Employee Information from [REDACTED] INC., documents that the Defendant was hired with [REDACTED] on August 27, 2008, and subsequently terminated on January 29, 2009. The exhibit documents that the Defendant received employment income on the dates of October 2, 2008, October 16, 2008, and October 30, 2008 for a total monthly income of \$1464.81. Ms. Woodward also noted in Exhibit D-2, that the Defendant received a total of \$901.40 for the month of November 2008 and a total of \$779.75 for the month of December 2008.
- 5) Ms. Woodward testified that the Defendant was considered a "required reporter" because she received adult Medicaid benefits (Exhibit D-4a) at the time she was hired for employment. According to Ms. Woodward, the Defendant was required to report information concerning her employment by September 2008 in order to affect her October 2008 SNAP benefits.
- 6) Ms. Woodward presented Exhibit D-3, Food Stamp Claim Determination worksheet to demonstrate that by withholding information concerning her employment at her recertification for SNAP benefits, an overpayment of SNAP benefits was issued to the Defendant in the amount of \$945.00 for the months of October 2008 through December 2008.
- 7) The Defendant contends that she reported her income information to Ms. Hack, another worker from the Department who required her to provide verification of her income. The Defendant stated that the management company, in which she rents her residence, also required her to

verify her income. The Defendant indicated that she had transportation issues which prevented her from delivering the information to the Department, but she was able to provide the employment information to the manager of the rental company. The Defendant purported that when she provided the information to the manager of the rental company, she asked that the information be faxed to the Department to Ms. Hack's attention.

- 8) West Virginia Income Maintenance Manual Chapter 1.2 indicates:

The client's responsibility is to provide information about his circumstances so the Worker is able to make a correct decision about his eligibility.

- 9) West Virginia Income Maintenance Manual, Chapter 9.1 indicates:

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

- 10) Common Chapters Manual 740.11.D states as follows:

Intentional Program Violation - For the purpose of determining through an Administrative Disqualification Hearing whether or not a person has committed an Intentional Program Violation, the following criteria will be used. 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 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.

- 11) Common Chapters Manual 740.22.M states as follows:

Decision – The Hearing Officer shall base the determination of Intentional Program Violation on clear and convincing evidence that demonstrates that the defendant committed, and intended to commit, an Intentional Program Violation as defined in Section 740.11 of this Chapter. The Hearing Officer shall weigh the evidence and testimony presented and render a decision based solely on proper evidence given at the hearing. In rendering a decision, the Hearing Officer shall consider all applicable policies of the Department, state and federal statutes, rules or regulations, and court orders. The decision shall include

reference to all pertinent law or policy. If the Hearing Officer rules that the defendant committed an Intentional Program Violation, he or she will include the length and the beginning date of the disqualification penalty.

#### **VIII. CONCLUSIONS OF LAW:**

- 1) The policy and regulations that govern SNAP benefits dictate that a program 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) Evidence presented during the Administrative Disqualification Hearing is clear that the Defendant intentionally withheld information concerning her employment with [REDACTED] INC. at her recertification for SNAP benefits on October 24, 2008. The evidence reveals that during the recertification for benefits, the Economic Service Worker questioned the Defendant about her employment status and the Defendant denied the receipt of employment income and her employment status. Evidence is clear that the Defendant commenced her employment with [REDACTED] INC. on August 27, 2008, almost two months prior to her recertification, and received income on two different occasions prior to her recertification for SNAP benefits. As a result of the Defendant withholding information concerning household income, an overpayment of SNAP benefits was issued in which the household was ineligible to receive.
- 4) In accordance with SNAP policy and regulations, an Intentional Program Violation has been committed and a disqualification penalty must be applied. The disqualification for a first offense is one (1) year.
- 5) The Defendant is the only assistance group member subject to said disqualification penalty. The one year disqualification penalty will begin July 1, 2011 and will run concurrently for the next 12 months.

#### **IX. DECISION:**

Intentionally making a false or misleading statement or misrepresenting facts to secure SNAP benefits constitutes a clear violation of the regulations. Based on the evidence presented, I find the violation intentional.

The Department's proposal to apply a twelve (12) month disqualification is upheld.

#### **X. RIGHT OF APPEAL:**

See Attachment

#### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_\_ day of May, 2011.**

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**Eric L. Phillips  
State Hearing Officer**