



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
9083 Middletown Mall
White Hall, WV 26554

Earl Ray Tomblin
Governor

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

May 21, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on the Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, Administrative Disqualification Hearing held May 14, 2012, for the purpose of determining whether 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 the Supplemental Nutrition Assistance Program, hereinafter, SNAP (formerly 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: 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).

Information submitted at the hearing reveals that you intentionally provided false and misleading information about your household income in order to receive SNAP benefits to which you were not legally entitled.

It is the decision of the State Hearing Officer that you committed an Intentional Program Violation and a disqualification penalty of one (1) year will be applied. This disqualification will begin effective July 2012.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Tammy Hollandsworth, RI, WVDHHR

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

-----,

Defendant,

v.

Action Number: 12-BOR-1017

**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. This hearing was convened on May 14, 2012.

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:

Rusty Udy, Repayment Investigator (RI), WVDHHR Representative

Presiding at the hearing was Thomas E. Arnett, 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 (IPV) and should be disqualified for a specified period from participation in the SNAP.

V. APPLICABLE POLICY:

7 CFR §273.16 USDA Code of Federal Regulations

Common Chapters Manual, Chapter 700

West Virginia Income Maintenance Manual §§1.2, 20.1, 20.2 & §20.6

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- DHS-1 IG-BR-31 ADH Hearing Summary
- DHS-2 ES-FS-5, Food Stamp Claim Determination showing overpayment of benefits
- DHS-3 ES-FS-5a, Food Stamp Calculation Sheets showing corrected calculations
- DHS-4 IQFS Screen Prints from RAPIDS showing Food Stamp disbursements
- DHS-5 EFAD Screen Prints from RAPIDS showing Food Stamp allotment determination for 11/8/10 – 4/30/11
- DHS-6 AQCM Screen Print from RAPIDS showing case member history
- DHS-7 CMCC Screen Print from RAPIDS showing case comments from workers
- DHS-8 Combined Application and Review Form (CAF) and Rights & Responsibilities signed by Defendant on 11/8/10
- DHS-9 Verification of ----- date of hire and earnings for 8/10 – 10/7/11
- DHS-10 Notification of Intent to Disqualify (IG-BR-44a) sent to Defendant on 2/22/12
- DHS-11 Waiver of Administrative Disqualification Hearing (IG-BR-44) sent to Defendant on 2/22/12
- DHS-12 BVCC Screen Print from RAPIDS showing case comments from IFM Worker for 3/7/12 – 3/20/12
- DHS-13 West Virginia Income Maintenance Manual §1.2.E
- DHS-14 West Virginia Income Maintenance Manual §§20.1 and 20.2
- DHS-15 West Virginia Income Maintenance Manual §20.6
- DHS-16 7 CFR § 273.16 USDA Code of Federal Regulations

VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from the Department of Health and Human Resources' (Department) Repayment Investigator (RI) Tammy Hollandsworth on April 3, 2012. The Department, represented by Repayment Investigatory Rusty Udy, contends that the Defendant has committed an Intentional Program Violation (IPV), and therefore, is recommending that the Defendant be disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP, formerly Food Stamp Program) for a period of one (1) year.

- 2) Notification of the May 14, 2012 hearing was mailed to the Defendant on April 10, 2012 via First Class U.S. Mail, as the Defendant is a current recipient of benefits through the Department and resides at a confirmed address.
- 3) The hearing convened telephonically, as scheduled on May 14, 2012 at 9:00 a.m., and as of 9:15 a.m., the Defendant failed to appear. As set forth in the Code of Federal Regulations found at §7 CFR 273.16 (e) (4), and the 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 February 22, 2012, the Defendant was notified via a Notification of Intent to Disqualify (DHS-10) that an investigation had been conducted and the Department alleged the Defendant had intentionally violated the Food Stamp Program regulations in November 2010 by - “not reporting at her Food Stamp application in 11/10 that her husband, ----- had been working for ----- [REDACTED] since 8/13/10.”
- 5) The Department contends that the Defendant intentionally violated SNAP regulations by withholding information about monthly household employment income. The evidence reveals that the Defendant completed a Combined Application and Review Form (CAF) for SNAP benefits on November 8, 2010 (DHS-8). Among the six household members included in the SNAP Assistance Group (AG) was ----- . According to case comments recorded on November 8, 2010 (DHS-7), -----’s was initially ineligible to be included in the SNAP AG due to a BEP (Bureau of Employment Programs) sanction, however, his registration with BEP was verified on November 10, 2010 and he was included in the SNAP AG.

A review of DHS-8, page 11, reveals that the only household income reported at the time of application was the Defendant’s employment income at the ----- . Case Comments (DHS-7) confirm that the AG’s monthly household income was calculated based on the Defendant’s reported/verified hourly earnings, multiplied by the number of hours per month. No employment earnings were reported for -----, which is further confirmed by his requirement to register with BEP.

Exhibit DHS-9 verifies that ----- was employed by ----- [REDACTED] during the period of July 1, 2010, through October 7, 2011.

Because the Defendant withheld information about ----- employment income, Exhibit DHS-2 (Food Stamp Claim Determination) reveals that the Defendant’s AG received \$1,609 in SNAP benefits during the period November 8, 2010 - April 30, 2011, to which it was not legally entitled. Exhibits DHS-3 (Food Stamp Claim Calculation Sheet), DHS-4 (SNAP Issuance History - Disbursement), DHS-5 (Food Stamp Allotment Determination) and DHS-6 (Case Members History) further confirm the overpayment calculation of SNAP benefits identified in DHS-2.

- 6) By signing the CAF (DHS-8) on the date of application/review, the Defendant agreed to the following:

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.

- 7) The Rights and Responsibilities forms completed and signed by the Defendant on the date of SNAP application/review include the following statement:

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 Food Stamp 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.

By signing the Rights and Responsibilities, the Defendant certified that she read, understood, and accepted the rights and responsibilities, and that all of the information she provided was true and correct.

- 8) West Virginia Income Maintenance Manual §1.2 (E):
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, §20.2:
When a AG (assistance group) has been issued more Food Stamps than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation or Intentional Program Violation claim. The claim is the difference between the allotment the client received and the allotment he should have received.
- 10) West Virginia Income Maintenance Manual, §20.2 (C) (2):
Once an IPV (Intentional Program Violation) is established a disqualification penalty is imposed on the AG (assistance group) members who committed the IPV. The penalties are as follows: (Chapter 9.1, A, 2, h) 1st Offense: 1 year (Disqualification)
- 11) Common Chapters Manual §740.11.D. - 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.

VIII. CONCLUSIONS OF LAW:

- 1) Regulations that govern SNAP benefits state that a SNAP violation has occurred when an individual intentionally made a false or misleading statement, or misrepresented, concealed or withheld facts relating to the use, presentation, transfer, acquisition, receipt or possession of SNAP/Food Stamp benefits.
- 2) Evidence reveals that the Defendant withheld, or provided false and misleading information, about her household employment income in order to receive SNAP benefits to which she was not legally entitled. The Defendant verified her husband's registration with BEP in order to include him in the AG without reporting his earned income. This clearly establishes intent.
- 3) The evidence is clear and convincing that the Defendant intentionally committed a SNAP violation as defined in the regulations.
- 4) In accordance with SNAP regulations, an Intentional Program Violation has been committed and a disqualification penalty must be applied. The disqualification for a first-time offense is 12 months (one year).
- 5) Only the Defendant is subject to this disqualification. The one-year disqualification will begin effective July 2012.

IX. DECISION:

The Department's proposal to apply a SNAP disqualification is **upheld**. The disqualification period will begin effective July 2012.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ Day of May, 2012.

Thomas E. Arnett
State Hearing Officer