



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General**

**Joe Manchin III
Governor**

**Board of Review
P.O. Box 1736
Romney, WV 26757**

**Patsy A. Hardy, FACHE, MSN, MBA
Cabinet Secretary**

February 8, 2010

Dear -----and -----:

Attached is a copy of the findings of fact and conclusions of law on your Supplemental Nutrition Assistance Program (SNAP) Administration Disqualification hearing held February 5, 2010. The purpose of this hearing was to determine whether or not you intentionally 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 is based on current policy and regulations. These regulations provide that an 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 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 § 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 about income available to your household in order to receive benefits for which you were not entitled.

It is the decision of the State Hearing Officer to Uphold the agency's proposal to implement a one (1) year SNAP penalty against you based on an Intentional Program Violation. Your penalty period will begin March 1, 2010 and continue for the next twelve (12) months.

Sincerely,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Lori Woodward, RI

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

-----and -----,

Defendants,

v.

**Action Number: 09-BOR-2447
09-BOR-2448**

**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 a fair hearing concluded on February 8, 2010 for -----and ----- . 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 February 5, 2010.

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:

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 Defendants 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:

7 CFR § 273.16 USDA Code of Federal Regulations
Common Chapters Manual Chapter 700, Appendix A
West Virginia Income Maintenance Manual § 1.2, 9.1.A.2.h and 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Combined Application and Review Form, Rights and Responsibilities, Computer printout of case comments dated July 10, 2009
- D-2 Notice of Approval dated August 12, 2009
- D-3 [REDACTED] Compensation Report for -----
- D-4 Food Stamp Claim Determination Worksheet
- D-5 Notification of Intent to Disqualify dated October 21, 2009
- 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, Common Chapters Manual 740-740.11

VII. FINDINGS OF FACT:

- 1) The Board of Review received a request for an Administration Disqualification Hearing on December 14, 2009. The Department contends that the Defendants committed an Intentional Program Violation (IPV) and recommend that both individuals be disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP) for a twelve (12) month period.
- 2) Notice of the scheduled hearing was mailed to the Defendants on January 4, 2010 via first class mail and was not returned to the Board of Review by the United States Postal Service.
- 3) The hearing convened as scheduled at 10:30 A.M., on the requested date, as of 10:45 A.M., the Co-Defendants failed to appear. As set forth in the Code of Federal Regulations found at § 7 CFR 273.16 (e) (4), and State Policy (West Virginia Department of Health and Human Resources Common Chapters Manual, Chapter 740.20), the hearing was conducted without the Defendants in attendance.
- 4) The Defendants completed a recertification for SNAP benefits on July 10, 2009. Exhibit D-1, Combined Application and Review Form dated July 10, 2009, indicates that the Defendants reported earned income from ----- employment and reported no income for ----- signed the Combined Application and Review Form indicating that all information reported at the time of recertification was true and correct. The Defendants both signed the Rights and Responsibilities associated with the recertification certifying all information was true and correct. The recertification was approved and Exhibit D-2, Notice of Approval, was issued to the Defendants on August 12, 2009.
- 5) The Department received a Data Exchange Wage Match which alerted the corresponding worker that -----, at the time of the recertification, was employed with [REDACTED]

Exhibit D-3, [REDACTED] Compensation Report, indicated that ----- was an employee with the organization since March 31, 2009. The report specified that the Co-Defendant had received consistent earnings from [REDACTED] on a weekly basis from June 26, 2009 through July 17, 2009. Specifically, the Co-Defendant received pays on July 3, 2009, July 10, 2009, and July 17, 2009. The Defendants failed to report this income at the recertification for benefits.

- 6) Exhibit D-1, the Rights and Responsibilities section of the recertification for SNAP benefits, certifies that all information relayed to the Department at the time of application is true and correct and the applicant accepts all responsibilities associated with the application for SNAP benefits. Both of the Defendants signatures appear on page 9 of documentation affirming their knowledge of all responsibilities related to their receipt of Departmental benefits. The Defendants marked “yes” to question #4 on the Food Stamp Program section of the form. This item states:

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 this documentation the Defendants affirmed that they read all statements and any information they purported to the Department at the time of application was true and correct.

- 7) The Department representative submitted Exhibit D-4, Food Stamp Claim Determination Worksheet, to establish that the failure of the Defendants to provide true and accurate information at the recertification of benefits resulted in an overpayment of One Hundred Seventy Three (\$173.00) dollars for the month of July 2009.
- 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 2.2 indicates:

All SNAP AG’s must report changes related to eligibility and benefit amount at application and redetermination.

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

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

- 1st Offense: 1 Year
- 2nd Offense: 2 Years
- 3rd Offense: Permanent

- 11) West Virginia Income Maintenance Manual, Chapter 20.2 indicates:

When an AG (benefit 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.

- 12) 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.

VIII. CONCLUSIONS OF LAW:

- 1) Based on evidence presented during the Administration Disqualification Hearing, the Defendants provided false statements to the Department regarding the amount of income available to the household in order to receive Supplemental Nutritional Assistance Program benefits for which they were not legally entitled. The Defendants failed to report the employment and income of ----- . The action of the Defendants to withhold information regarding the employment of ----- was a clear an intentional misrepresentation of their situation.
- 2) 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 Food Stamp benefits.
- 3) There is clear and convincing evidence that the Defendant committed an intentional program violation as defined in the SNAP policy and regulations.

- 4) In accordance with Food Stamp policy and regulations, an Intentional Program Violation has been committed and a disqualification penalty must be applied. The disqualification penalty for a first (1st) offense is one (1) year.
- 5) The Defendants are the only assistance group members subject to said disqualification penalty. The one year disqualification penalty will begin March 1, 2010 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 and subsequent repayment of benefits 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 February 2010.

Eric L. Phillips
State Hearing Officer