



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
1400 Virginia Street  
Oak Hill, WV 25901

Earl Ray Tomblin  
Governor

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

November 1, 2011

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held October 19, 2011 for the purpose of determining whether or not an Intentional Program Violation was committed.

In arriving at a decision, the State Hearings 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 (SNAP) 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 (WV Income Maintenance Manual § 20.2 C(2) and 7 CFR Section 273.16 (c)].

The information submitted at your hearing revealed that you gave false information at your August 2009 SNAP application and February 2010 SNAP review by reporting your son, ----- as residing in your household.

It is the decision of the State Hearings Officer to **Uphold** the proposal of the Department to impose an Intentional Program Violation against you for 24 months effective December 2011.

Sincerely,

Kristi Logan  
State Hearings Officer  
Member, State Board of Review

cc: Chairman, Board of Review  
Rusty Udy, Repayment Investigator

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

**IN RE:** -----,

**Defendant,**

**v.**

**ACTION NO.: 11-BOR-1859**

**WEST VIRGINIA DEPARTMENT OF  
HEALTH AND HUMAN RESOURCES,**

**Movants.**

**DECISION OF STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from an Administrative Disqualification Hearing concluded on October 19, 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.

**II. PROGRAM PURPOSE:**

The program entitled Supplemental Nutrition Assistance Program (SNAP) is administered by the West Virginia Department of Health and Human Resources.

The purpose of 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 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:**

Rusty Udy, Repayment Investigator

Presiding at the Hearing was Kristi Logan, 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 Defendant committed an Intentional Program Violation.

**V. APPLICABLE POLICY:**

WV Income Maintenance Manual § 1.2 E and 9.1 A  
Code of Federal Regulations- 7 CFR § 273.16

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

**Department's Exhibits:**

- D-1 Hearing Summary
- D-2 SNAP Claim Determination
- D-3 SNAP Claim Calculation Sheet
- D-4 SNAP Issuance History Screen (IQFS) from RAPIDS Computer System
- D-5 SNAP Allotment Determination Screen (EFAD) from RAPIDS Computer System
- D-6 Case Members History Screen (AQCM) from RAPIDS Computer System
- D-7 Case Comments (CMCC) from RAPIDS Computer System
- D-8 Combined Application and Review Forms and Rights and Responsibilities Forms dated August 20, 2009, January 21, 2010 and February 19, 2010
- D-9 Attendance Verification from [REDACTED] High School
- D-10 Statement from ----dated May 10, 2011
- D-11 Notification of Intent to Disqualify dated July 26, 2011
- D-12 Waiver of Administrative Disqualification Hearing
- D-13 Overpayment Notification Letter dated August 18, 2011
- D-14 WV Income Maintenance Manual § 1.2 E
- D-15 WV Income Maintenance Manual § 20.1 and 20.2
- D-16 WV Income Maintenance Manual § 20.6
- D-17 Code of Federal Regulations – 7 CFR §273.16

**VII. FINDINGS OF FACT:**

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from Department of Health and Human Resources' Repayment Investigator, Rusty Udy on September 7, 2011. The Department contends that Defendant has committed an Intentional Program Violation (IPV) and is recommending that she be disqualified from participation in SNAP for 24 months.

- 2) Defendant was notified of the hearing by letter mailed by this Hearing Officer on September 13, 2011. Defendant failed to appear for the hearing and did not provide good cause for her failure to do so. In accordance with 7 CFR §273.16(e)(4) and Common Chapters Manual §740.20, the hearing was held in Defendant's absence.
- 3) Defendant applied for SNAP benefits on August 20, 2009. She reported her assistance group consisted of herself and her three (3) children: ----, ---- and ----. SNAP benefits were approved based on the information provided (D-7 and D-8).
- 4) Defendant completed a SNAP review on February 19, 2010. Defendant reported no changes in her assistance group, stating ----, ---- and ---- resided with her (D- 7 and D-8).
- 5) The Department discovered that Defendant's son, ---- was not living with her at the time of her August 2009 SNAP application and February 2010 SNAP review. A statement from ----, ----'s aunt, dated May 10, 2011 was presented which reads in pertinent part (D-10):

----lived in my home 6/2009 through Feb 2011. He just moved out because he got trouble at school and I grounded him. He said he was moving out I've only seen him once since he moved out.

I enrolled him at [REDACTED] At first he rode the bus, [REDACTED] is the bus driver. Later on he started riding with my son to school.

The Department obtained verification from [REDACTED] High School that ---- was enrolled there in August 2009 by ----, who was listed as ----'s guardian (D-9).

- 6) The Department contends Defendant made a false statement at her SNAP application and subsequent SNAP review regarding her household composition. The result of Defendant's misrepresentation was an overpayment of SNAP benefits of \$1431 (D-2 and D-3).
- 7) WV Income Maintenance Manual § 1.2 E 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. When the client is not able to provide the required verification, the Worker must assist him. The client must be instructed that his failure to fulfill his obligation may result in one or more of the following actions:

- Denial of application
- Closure of the active Assistance Group (AG)
- Removal of the individual from the AG
- Repayment of benefits

- Reduction in benefits

8) WV Income Maintenance Manual § 9.1 A(2)h states:

Persons who have been found guilty of an Intentional Program Violation (IPV) are disqualified [from SNAP] as follows:

- 1st offense: 1 year
- 2nd offense: 2 years
- 3rd offense: Permanent

9) WV Income Maintenance Manual § 9.1 A (1-2) states:

The SNAP AG must include all eligible individuals who both live together and purchase and prepare their meals together.

When an individual, who is included in an AG, is absent or is expected to be absent from the home for a full calendar month, he is no longer eligible to be included in the AG, and must be removed after proper notice.

10) Code of Federal Regulations- 7 CFR § 273.16 states:

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 [SNAP] Act, the Food Stamp Program Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt or possession of Food Stamp coupons.

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

- 1) In order for an Intentional Program Violation to be established, it must be shown by clear and convincing evidence that the Defendant intentionally made a false or misleading statement or withheld or concealed facts from the Department.
- 2) Defendant gave false statements at her August 2009 SNAP application and February 2010 SNAP review by reporting her son ----- as residing in her household. The Department verified that ----- had been living with his aunt since June 2009, prior to Defendant's SNAP application.
- 3) The result of the false information provided by Defendant to the Department resulted in an overpayment of SNAP benefits issued for which she was not entitled to receive.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to impose an Intentional Program Violation against Defendant for 24 months effective December 2011.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 1<sup>st</sup> day of November 2011.**

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**Kristi Logan**  
**State Hearing Officer**