



**State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
1027 N. Randolph Ave.  
Elkins, WV 26241**

**Earl Ray Tomblin  
Governor**

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

December 15, 2011

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on the Supplemental Nutrition Assistance Program (SNAP) Administrative Disqualification Hearing held December 1, 2011 to determine 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.

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, SNAP Regulations, or any State statute relating 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 Section 20.2 and Code of Federal Regulations-7 CFR Section 273.16)

Documentation and testimony submitted at the hearing reveals that you intentionally provided inaccurate information about your drug felon status during SNAP redeterminations in 2010 and 2011.

It is the decision of the State Hearing Officer that you committed an Intentional Program Violation and a permanent disqualification penalty will be applied.

Sincerely,

Pamela L. Hinzman  
State Hearing Officer  
Member, State Board of Review

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

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

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

**Defendant,**

**v.**

**ACTION NO.: 11-BOR-2131**

**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 conducted via videoconference on December 1, 2011 in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources (WVDHHR).

All persons giving testimony were placed under oath.

**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 an EBT card to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

### **III. PARTICIPANTS:**

Tammy Hollandsworth, WVDHHR Repayment Investigator

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

The hearing convened as scheduled on December 1, 2011 at 2 p.m., and as of 2:15 p.m., the Defendant failed to appear. As set forth in the Code of Federal Regulations found at §7 CFR 273.16 (e) (4), and State Policy found in the West Virginia Department of Health and Human Resources Common Chapters Manual, Chapter 740.20, the hearing was conducted without the Defendant in attendance.

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

The question to be decided is whether the Defendant committed an Intentional Program Violation and should be permanently disqualified from participation in the Supplemental Nutrition Assistance Program.

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

7 CFR Section 273.16 USDA Code of Federal Regulations  
WVDHHR Common Chapters Manual Section 740.11.D  
West Virginia Income Maintenance Manual Sections 1.2.E, 9.1, 20.1 and 20.2

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

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

- D-1 Hearing Summary
- D-2 Food Stamp Claim Determination form for January 2011 through September 2011
- D-3 SNAP Issuance History- Disbursement
- D-4 Food Stamp Allotment Determination for January 2011 through September 2011
- D-5 Food Stamp Claim Calculations for January 2011 through September 2011
- D-5a Case Member History information
- D-6 Case Comments
- D-7 Sentencing Order entered on October 28, 2010
- D-8 West Virginia Income Maintenance Manual Section 9.1
- D-9 Combined Application and Review forms with Rights and Responsibilities signed by Defendant
- D-10 Copy of IG-BR-44 and IG-BR-44a
- D-11 West Virginia Income Maintenance Manual Section 1.2.E
- D-12 West Virginia Income Maintenance Manual Sections 20.1 and 20.2
- D-13 West Virginia Income Maintenance Manual Section 20.6

D-14 Code of Federal Regulations Section 273.16

D-15 Information from Food and Nutrition Service Electronic Disqualification System

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

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from WVDHHR Repayment Investigator Tammy Hollandsworth on October 18, 2011. The Repayment Investigator contends that the Defendant committed an Intentional Program Violation and recommends that the Defendant be permanently disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program. The Repayment Investigator indicated that the Defendant had two previous SNAP/Food Stamp disqualification penalties: a 12-month disqualification period which began on April 1, 1998 and a 24-month disqualification period which began on August 1, 2001 (D-15).
- 2) A Hearing Summary (D-1) and Case Comments (D-6) submitted by the Department indicate that the Defendant completed SNAP redeterminations on December 21, 2010 and June 23, 2011, signing Combined Application and Review Forms with associated Rights and Responsibilities (D-9). By signing the forms, the Defendant attested that she had provided complete and truthful information to the Department. During the redeterminations, the Defendant failed to report that she had entered a guilty plea to a felony offense of delivery of a controlled substance as indicated in a Sentencing Order (D-7) entered on October 28, 2010. The Repayment Investigator testified that convicted drug felons are permanently disqualified from the SNAP under policy.
- 3) The Repayment Investigator testified that failure to report the drug felony conviction resulted in a \$1,439 loss to the SNAP for the period of January 2011 through September 2011, as indicated on Food Stamp Claim Determination forms (D-2) and Food Stamp Claim Calculations (D-5). SNAP Issuance History and Food Stamp Allotment Determination information was provided to verify the amount of benefits issued (D-3 and D-4).
- 4) West Virginia Income Maintenance Manual Section 1.2.E (D-11) states that the client's responsibility is to provide information about his/her circumstances so the worker is able to make a correct decision about his/her eligibility.
- 5) West Virginia Income Maintenance Manual Section 9.1.A.2.g. (D-8) states that individuals convicted of a drug felony offense which occurred on or after 8/23/96 which involved possession, use or distribution of a controlled substance as defined by section 802 (6) of the Controlled Substance Act are permanently disqualified from the SNAP.
- 6) West Virginia Income Maintenance Manual Section 20.2 (D-12):

When an AG (Assistance Group) has been issued more SNAP benefits 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.

7) West Virginia Income Maintenance Manual Section 20.2.C, 2 (D-12):

IPV's [*sic*] include making false or misleading statements, misrepresentations, concealing or withholding information, and committing any act that violates the Food Stamp Act of 1977, SNAP regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of SNAP benefits...

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: (Section 9.1A, 2, h) 1st Offense: 1 year (Disqualification).

- 8) WVDHHR Common Chapters Manual Section 740.11.D provides 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 benefits.

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

- 1) Policy states that when an Assistance Group has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation or Intentional Program Violation claim. If it is determined that an Intentional Program Violation has been committed, an appropriate disqualification penalty is imposed.
- 2) The Defendant provided false and misleading information about her drug felon status, resulting in a SNAP over issuance of \$1,439. Therefore, the Department is correct in its proposal to impose an Intentional Program Violation. As the Defendant had two previous disqualification penalties from the SNAP/Food Stamp Program, a permanent disqualification is, therefore, applied.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the Department's proposal to impose an Intentional Program Violation penalty and permanently disqualify the Defendant from the SNAP.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 15th Day of December, 2011.**

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**Pamela L. Hinzman**  
**State Hearing Officer**