



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

March 30, 2011

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 17, 2011 for the purpose of determining whether or not an Intentional Program Violation occurred.

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 falsely reported your household's only income as child support for ----- at your May 2010 SNAP application when you had already been receiving regular child support payments from ----- father.

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

Sincerely,

Kristi Logan  
State Hearings Officer  
Member, State Board of Review

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

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

-----,

**Defendant,**

v.

**Action Number: 11-BOR-423**

**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 concluded on 3/17/2011 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 & 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:**

Tammy Hollandsworth, Repayment Investigator

Presiding at the Hearing was Kristi Logan , State Hearing Officer and a member of the Board of Review.

This hearing was held by videoconference.

**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, 9.1 A and 10.3 N  
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 Form
- 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 Receipts for Child Support for -----
- D-9 Combine Application and Review Form, Pre-Interview Screener and Rights and Responsibilities Form dated May 21, 2010
- D-10 Notification of Intent to Disqualify
- D-11 Waiver of Administrative Disqualification Hearing (unsigned)
- D-12 WV Income Maintenance Manual § 1.2 E
- D-13 WV Income Maintenance Manual § 20.1 and 20.2
- D-14 WV Income Maintenance Manual § 20.6

**Defendant's Exhibits:**

None

**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, Tammy Hollandsworth on January 25, 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 12 months.
- 2) Defendant was notified of the hearing by letter sent by this Hearing Officer on February 8, 2011. Defendant failed to appear at the hearing or 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 on May 21, 2010. She reported to her caseworker that her household consisted of her two (2) children, ----- and -----and herself. Defendant reported her household's only income as child support received for ----- of \$600 monthly. This income was paid to Defendant through the Bureau of Child Support Enforcement (D-1, D-7 and D-9).

Defendant reported ----- father had just been released from prison and chose not to pursue child support from him at that time. SNAP benefits were approved based on the information provided by Defendant (D-7).

4) The Bureau of Child Support Enforcement notified Defendant's caseworker that -----, ----- father, had been paying Defendant child support directly since April 2010. Receipts and copies of money orders were provided by -----verifying the amount of money he has paid Defendant for ----- (D-8).

5) The Department contends Defendant made a false statement at her SNAP application in May 2010 by reporting her household's only income as child support for -----. Defendant had been receiving money from ----- father since April 2010, prior to the SNAP application. The result of the misrepresentation was an overpayment of SNAP of \$746.

6) 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

7) WV Income Maintenance Manual § 10.4 N states:

Child Support: Counts as unearned income for SNAP

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) 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 made a false statement at her SNAP application in May 2010 by reporting child support for ----- as her household's sole income. Defendant received eleven (11) child support payments from ----- father prior to her SNAP application and continued to receive regular payments. The result of Defendant's willful misrepresentation was an overpayment of SNAP benefits issued for which she was not eligible 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 effective May 2011.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 30<sup>th</sup> day of March 2011**

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**Kristi Logan  
State Hearing Officer  
Member, Board of Review**