



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

May 24, 2011

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held May 6, 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 son ----- as residing in your household at your October 2009, April 2010 and October 2010 SNAP reviews when he was residing in [REDACTED] with his father. Additionally, you falsely reported ----- as your legal daughter at your SNAP reviews even though she had been adopted by your parents in 2009.

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 July 2011.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

cc: Chairman, Board of Review
Christine Allen, Repayment Investigator

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

IN RE: -----,

Defendant,

v.

ACTION NO.: 11-BOR-763

**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 May 6, 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:

Christine Allen, 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 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 Issuance History Screen (IQFS) from RAPIDS Computer System
- D-4 SNAP Allotment Determination Screen (EFAD) from RAPIDS Computer System
- D-5 Case Members History Screen (AQCM) from RAPIDS Computer System
- D-6 Case Comments (CMCC) from RAPIDS Computer System
- D-7 Front-End Fraud Unit Investigative Findings Report dated November 24, 2010
- D-8 Enrollment Verification from [REDACTED] Elementary School
- D-9 Verification of Birth from [REDACTED] State Department of Health
- D-10 Statement from -----dated October 14, 2010
- D-11 Social Security Administration Data Exchange Online Query
- D-12 Social Security Administration Benefit Details Screen
- D-13 Narrative Screen (TRNA) from OSCAR Computer System
- D-14 Combined Application and Review Forms dated October 29, 2009, April 28, 2010 and October 18, 2010
- D-15 Rights and Responsibilities Forms dated October 29, 2009, April 28, 2010 and October 18, 2010
- D-16 School Clothing Allowance Application dated July 29, 2010
- D-17 WV Health Care Coverage for Kids & Expectant Moms Application dated September 15, 2010
- D-18 Notification Letter dated October 30, 2009
- D-19 Repayment Notification Letter dated February 7, 2011
- D-20 Notification of Intent to Disqualify Letter dated January 25, 2011
- D-21 WV Income Maintenance Manual § 1.2 E
- D-22 WV Income Maintenance Manual § 9.1 A
- D-23 WV Income Maintenance Manual § 20
- D-24 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, Christine Allen on March 22, 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 March 28, 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 completed a SNAP review on October 29, 2009. She reported to her caseworker that she resided in the home of her parents, -----, with her children -----and ----- . Defendant reported purchasing and preparing meals separately from her parents and SNAP benefits were recertified for Defendant and her children based on the information provided (D-1, D-6 and D-15).

Defendant completed another SNAP review on April 28, 2010. She reported no changes in her household composition (D-1, D-6 and D-15). Ongoing SNAP was recertified for Defendant and her children.

- 4) Defendant applied for School Clothing Allowance on July 30, 2010 and payment was approved for both of her children (D-1, D-6 and D-16). A children's Medicaid review was processed on September 23, 2010 for Defendant's children and was also approved (D-1, D-6 and D-17).

Defendant's SNAP benefits were reviewed on October 19, 2010. Defendant reported she still resided in the home of her parents with her daughter, but reported ----- had left the household to live with his father (D-1, D-6 and D-15).

- 5) An investigation by the Front-End Fraud Unit was conducted and the conclusions of the investigation indicated -----had not resided in West Virginia since he started attending school, but had been living with his father in [REDACTED] Defendant had reported that ----- attended [REDACTED] Elementary School and the Department verified with the school that ----- was never enrolled there (D-7 and D-8).

A statement was obtained from Defendant's mother, -----on October 14, 2010 which read in pertinent part (D-10):

I am ----- . [Defendant] is my daughter. She lives here with me and my husband, and ----- . We (----- and I) adopted -----around one year ago (late 2009). ----- receives Soc. Sec. from -----of \$538.00. ----- only comes in on weekends, holidays and during the summer. He lives with his father, [REDACTED] in [REDACTED] [REDACTED] and attends school in [REDACTED]

The Department verified with the [REDACTED] State Department of Health that ----- and ----- were -----'s legal parents (D-9). Additionally, ----- has received Social Security benefits from ----- since June 2009 (D-11).

- 6) The Department contends Defendant made false statements at her SNAP reviews by not only reporting ----- has residing with her, but by reporting ----- was her legal child. Defendant was not eligible to receive SNAP benefits for ----- while he resided with his father and was not eligible to receive SNAP for ----- without her legal parents, ----- and -----, included in the assistance group. The result was an overpayment of SNAP of \$4079 issued for which Defendant was not entitled to receive (D-2).

- 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.

The following individuals who live together must be in the same AG, even if they do not purchase and prepare their meals together:

- Children Under Age 22, Living With a Parent

Natural or adopted children and stepchildren who are under 22 years of age and who live with a parent must be in the same AG as that parent.

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 made false statements at her SNAP reviews in October 2009, April 2010 and October 2010 by reporting her son ----- as residing in her household. Defendant's son resided with his father in [REDACTED] since he started attending school, and never attended in school in West Virginia. Defendant also falsely reported ----- as her legal child. ----- was adopted by Defendant's parents in 2009 and as dictated by policy, was not eligible to receive SNAP benefits in a separate assistance group from ----- and -----.
- 3) The result of Defendant's willful misrepresentation of her household composition and relationship with ----- was 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 effective July 2011.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 24th day of May 2011.

**Kristi Logan
State Hearing Officer**