



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

June 21, 2011

-----and -----

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held June 7, 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 intentionally withheld information regarding ----- employment at your December 2010 SNAP review.

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 August 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:    -----and -----,**

**Defendant and Co-Defendant**

**v.**

**ACTION NO.: 11-BOR-897 and 898**

**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 June 7, 2011 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.

**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 and Co-Defendant committed an Intentional Program Violation.

**V. APPLICABLE POLICY:**

WV Income Maintenance Manual § 1.2 E, 9.1 A and 10.3 EE  
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 SNAP Claim Calculation Sheet
- D-6 WV WORKS Issuance History Screen (IQAF) from RAPIDS Computer System
- D-7 Case Members History Screen (AQCM) from RAPIDS Computer System
- D-8 Case Comments (CMCC) from RAPIDS Computer System
- D-9 New Hire Details from Data Exchange
- D-10 Employment Verification from [REDACTED]
- D-11 Combined Application and Review Form dated December 30, 2010
- D-12 Rights and Responsibilities dated December 30, 2010
- D-13 Notification Letter dated January 3, 2011
- D-14 Repayment Notification Letter dated March 23, 2011
- D-15 Notification of Intent to Disqualify dated March 23, 2011
- D-16 WV Income Maintenance Manual § 1.2 E
- D-17 WV Income Maintenance Manual § 9.1 A
- D-18 WV Income Maintenance Manual § 10.3 EE
- D-19 WV Income Maintenance Manual § 20
- D-20 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 April 15, 2011. The Department contends that Defendants have committed an Intentional Program Violation (IPV) and is recommending that they be disqualified from participation in SNAP for 12 months.
- 2) Defendants were notified of the hearing by letters sent by this Hearing Officer on April 18, 2011. Defendants failed to appear at the hearing or provide good cause for their

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 and Co-Defendant's absence.

- 3) On December 20, 2010 Defendant and Co-Defendant completed a SNAP review. Defendants reported to their caseworker that their son ----- was no longer enrolled in school. SNAP benefits were recertified based on the information provided (D-8 and D-11).
- 4) Co-Defendant was in the local office on February 1, 2011 at which time she reported that ----- had started working for Brushfork Recycling. Co-Defendant presented a paystub for ----- from November 2010 (D-8).

The Department verified with [REDACTED] that ----- was hired on November 15, 2010 and received his first paycheck on November 22, 2010 (D-10).

- 5) The Department contends Defendant and Co-Defendant intentionally withheld information regarding ----- earned income from their caseworker at their SNAP review in December 2010. ----- was hired the month prior to the SNAP review and had received regular paychecks from his employment with [REDACTED]. The result of Defendants' misrepresentation of their household income was an overpayment of SNAP benefits of \$565 (D-2 and D-5).

- 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 § 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

- 8) WV Income Maintenance Manual § 10.3 EE states:

Employment

Compensation as an employee: counts as unearned income for SNAP unless the individual is under 18 years old and is enrolled in elementary or secondary school or program for completion of a GED at least half-time, as defined by the school.

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 and Co-Defendant reported that their son was no longer enrolled in school at their December 2010 SNAP review. They withheld the fact that their son had started working in November 2010 and had been receiving regular income from employment. The earned income was not reported by Co-Defendant until February 2011, three (3) months after the date of hire.
- 3) The willful misrepresentation of Defendants' household income caused an overpayment of SNAP benefits issued for which they were 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 and Co-Defendant effective August 2011.

### **X. RIGHT OF APPEAL:**

See Attachment

### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 17<sup>th</sup> day of June 2011.**

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