



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 Washington Street, West
Charleston, WV 25313

Earl Ray Tomblin
Governor

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

August 3, 2011

RE: -----ADH hearing

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 July 26, 2011 for the purpose of determining whether or not -----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.

Eligibility for SNAP is based on current policy and regulations. Some of these regulations state as follows: 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 [SNAP] 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 §20.2 and Code of Federal Regulations - 7 CFR §273.16).

The information submitted at the hearing showed that you intentionally provided false information about your household's circumstances in order to receive SNAP for which you were not entitled.

It is the decision of the State Hearing Officer to **uphold** the Agency's proposal to apply a one (1) year SNAP disqualification penalty against you based on an Intentional Program Violation. Your penalty begins September 1, 2011.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review/Natasha Jemerison, Kanawha DHHR

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

IN RE: -----,

Defendant,

v.

ACTION NO.: 11-BOR-984

**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 ----- [REDACTED] 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, and was convened on July 26, 2011.

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 benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

III. PARTICIPANTS:

- , Defendant's representative
- , Defendant
- , Defendant's witness
- , Defendant's witness
- , Defendant's witness
- , Defendant's witness

Natasha Jemerison, Department's representative
Tammy Drumheller, Department's witness
Jolynn Marra, Department's witness

Presiding at the Hearing was Cheryl Henson, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Defendant committed an intentional program violation and should be disqualified for one (1) year from participation in SNAP.

V. APPLICABLE POLICY:

7 CFR § 273.16 USDA Code of Federal Regulations
Common Chapters Manual Chapter 700, Appendix A
West Virginia Income Maintenance Manual §1.2, 9.1.A.2.h and 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- M-1 Benefit Recovery Referral screen from Department's computer system dated July 22, 2011, one (1) page
- M-2 West Virginia Income Maintenance Manual §1.2.E, two (2) pages
- M-3 Food Stamp Claim Determination forms and supporting documentation, nineteen (19) pages
- M-4 Code of Federal Regulations §7CFR273.16, three (3) pages
- M-5 SNAP application dated November 18, 2008, ten (10) pages
- M-6 Rights and Responsibilities form dated November 18, 2008, five (5) pages – front and back
- M-7 SNAP application dated May 1, 2009 with supporting documentation, fourteen (14) pages
- M-8 Rights and Responsibilities form dated May 1, 2009, five (5) pages – front and back
- M-9 Copy of January 14, 2010 decision by Hearing Officer, fifteen (15) pages
- M-10 West Virginia Income Maintenance Manual §20.6, two (2) pages
- M-11 West Virginia Income Maintenance Manual §2.2, two (2) pages
- M-12 Notification letters to Defendant dated March 29, 2011, five (5) pages
- M-13 Client Contact Report from Department's Child Care Agency, three (3) pages
- M-14 Sworn written statement dated November 9, 2009, two (2) pages

Claimant's Exhibits:

- D-1 Common Chapters Manual §740.21 and 740.22
- D-2 Memorandum of Law: Hearsay Evidence in DHHR Fair Hearings with supporting documents, three (3) pages
- D-3 Marriage Certificate dated March 24, 2010, Receipt from Social Security Administration dated March 24, 2010, two (2) pages
- D-4 Copy of West Virginia Employee – Patrolman card dated August 19, 2008, one (1) Page
- D-5 Copies of [REDACTED] County Tax Receipts dated November 7, 2008 and November 30, 2009, three (3) pages

VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing, hereinafter ADH, was received by the Board of Review from the Department of Health and Human Resources, hereinafter Department, on April 21, 2011. The Department contends that the Defendant has committed an Intentional Program Violation, hereinafter IPV, and made a fraudulent statement or misrepresentation regarding her household composition by not reporting that ----- lived in her household during the period of December 2008 through November 2009, and that this information was concealed by her in order to receive SNAP. The Department is recommending that she be disqualified from participation in SNAP for a period of one (1) year.
- 2) On or about March 29, 2011, the Department sent the Defendant a Notification of Intent to Disqualify (M-12) form indicating that it had reason to believe she intentionally violated a SNAP rule by failing to report that ----- lives in her home and that he receives earned income from employment.
- 3) The Department presented evidence to show that the Defendant completed a SNAP application interview (M-5) on November 18, 2008 at which time she did not report that -----lived in her household, and she did not report his earned income from employment. She reported that ----- was the father of her child, and that he lived in [REDACTED] West Virginia. She did not provide a more specific address for him. She signed the application indicating she understood her responsibility to report accurate and truthful information. She also signed the Rights and Responsibilities form (M-6) indicating she understood her responsibility to report accurate and truthful information and the penalties involved for failure to do so.
- 4) Additional evidence submitted (M-7) shows that the Defendant completed a SNAP application interview on May 1, 2009 at which time she again did not report that -----lived in her household, and she did not report his earned income from employment. She again reported that -----was the father of her child, and she provided the same general address for him. She signed the application indicating she understood her responsibility to report accurate and truthful information. She also signed the Rights and Responsibilities form (M-8) indicating she understood her responsibility to report accurate and truthful information and the penalties involved for failure to do so.

5) Additional evidence submitted (M-9) shows that the Board of Review held a hearing on January 8, 2011 and subsequently issued a written decision on January 14, 2010 addressing whether the Department was correct during November 2009 in its decision to terminate the Defendant's SNAP eligibility and child care services based on -----having been determined by the Department to be living in the Defendant's home. The Board upheld the Department's decision to terminate the Defendant's SNAP eligibility at that time and found in relevant part the following:

(1) -----renewed his driver's license on June 24, 2009 with the West Virginia Department of Motor Vehicles and listed his residential address as [REDACTED] [REDACTED] West Virginia, [REDACTED] which matches the Defendant's address.

(2) -----titled a vehicle with the West Virginia Department of Motor Vehicles on March 4, 2009 and listed his address as [REDACTED] which again matches the Defendant's address.

(3) The Claimant testified that she had no problem with people in the community believing that the father of her child lived in her home. She stated that she lived on the [REDACTED] [REDACTED] West Virginia, in a very high crime neighborhood and liked for people to believe she did not live alone.

(4) The Claimant testified that -----does not live with her. She stated that her credit rating is not sufficient for her to open a checking account. She testified that -----pays her bills through his checking account. She added that she gives him the money to pay the bills and he pays them from his checking account. She testified that -----does not pay her bills. She submitted evidence that shows her electric bill, water bill, and rental lease are listed in her name. She testified that when she spoke with the landlord prior to renting the home she portrayed to her that they were a couple. She stated that when she moved to [REDACTED] recently, she is renting a home owned by -----and that she pays him rent. She added that she never sought child support from him because he was providing her with a vehicle in order to get to work and she thought that was enough.

(5) The Claimant submitted evidence in the form of a letter that she says -----completed. In the body of the letter it states that he has never lived at [REDACTED] [REDACTED]. He adds that he is a police officer and works two (2) to three (3) days per week in [REDACTED] West Virginia, and that he has stayed at the Claimant's house a few times due to her being the mother of his child. He added that in August 2009 he had been hospitalized for one month and had some of his personal items sent to the Claimant's home. He indicated that he lives at [REDACTED] West Virginia, and that he recently purchased properties at [REDACTED]. The letter is typed and dated November 13, 2009.

(6) The Claimant provided evidence in the form of an email that she purported to be written by her mother. The email is dated January 7, 2010 and provides that “to the best of my knowledge -----and ----- live together.” The author also provides that “-----” is -----’s father, and that he does not live with them. The author also provides, “If [REDACTED]’s neighbors thought ----- lived with them that was what we wanted them to think.”

(7) The Defendant’s employer testified that she has never been in the Defendant’s home, but that she knows that for a period of time during ----- recovery from illness he either lived with the Defendant or she lived with him in order to help in his recovery. She offered that she “assumed” that they did not live together other than for that brief period of time during his recovery from illness.

Statements or evidence provided either in Department’s Exhibit M-9 or by witnesses in that exhibit which speak to any information or evidence collected from witnesses in the Defendant’s community who were not available for cross-examination by the Defendant during this hearing are disregarded and will not be utilized in determining whether the Defendant committed an IPV. The Department conceded that the witnesses were not available for testimony.

- 6) The Department argued that the Board’s January 14, 2010 decision (M-9) upholding the Department in terminating the Defendant’s SNAP eligibility at that time is sufficient to show that -----lived in the Defendant’s home, and that the only issue for this hearing is whether the Defendant’s withholding of the information was intentional. The Board’s January 14, 2010 decision dealt with issues which required the Board to determine whether the Department acted according to policy when during the month of November 2009 it terminated the Defendant’s SNAP eligibility based on its determination that -----lived in the Defendant’s home. The Board was required to base its decision on the preponderance of the evidence presented at that time. In Administrative Disqualification Hearings (ADH), the Board is required to base its decision on clear and convincing evidence; therefore, although it will be considered, the January 14, 2010 decision is not sufficient in itself to support that -----lived in the Defendant’s home for the period of December 2008 through November 2009.
- 7) Additional evidence submitted (M-13) shows that on or about July 9, 2008 the Defendant submitted a letter from -----to the Department’s child care agency which was documented by the child care agency as follows:

[Defendant] submitted verification of child support (letter from child’s father stating that he supplied \$100.00 per month) which completed information needed for her application...

The Department purports that the Defendant never reported any such child support payment to it during her SNAP application interviews. The Department purports that the child care agency requires that recipients either be receiving monies for child support or be pursuing such in order to be eligible for the program. The Defendant purports that she was not required by the child

care agency to be either pursuing or receiving monies for child support, and that the letter ----- submitted which is referred to above stated that he is providing diapers for her child in the amount of one hundred dollars (\$100.00). She stated that he did not say in his letter that he provided her with one hundred dollars (\$100.00) in cash.

- 8) Additional evidence (M-14) shows that the Department interviewed the Defendant's landlord on November 9, 2009 and obtained a sworn written statement from her on that date. The Defendant objected to the statement being considered because the landlord was not available for cross-examination. This evidence was not provided to the Defendant prior to the hearing and was brought forth on the day of the hearing. The Defendant's objection is sustained and the evidence will not be considered.
- 9) The Defendant objected to all other discussion of prior witness statements being considered when the individuals who provided the information were unavailable for cross-examination. The Department conceded that the witnesses were not available for testimony. Therefore, any testimony provided during this hearing by witnesses in regard to prior statements obtained by them from community members will not be considered in determining whether the Defendant committed an IPV.
- 10) The Defendant testified that she began receiving SNAP assistance at some time around the month of January 2008. She stated that she began living at the -----address during October 2008. She stated that when she went to look at the home -----accompanied her in order to determine whether it was a safe neighborhood. She stated that her name is listed on the lease, and that she never told the landlord that she and -----were married or that -----would be living there with her. She stated that -----listed her address as his own on his driver's license in order to effect a quicker response from emergency responders should an emergency arise at her residence. She explained that by doing so it "puts a shield over your house" and that police response would be quicker "if a police officer lived there, or [it was] thought they lived there." She stated that she did not seek child support from -----because he provided her with a safe automobile to drive, and paid for the insurance. She stated that she never told her neighbors that she and -----were married, nor did she "hold-out" to her neighbors that she and -----were married. She stated that -----lived at [REDACTED] West Virginia from December 2008 through November 2009 with his brother, ----- . She stated that he did not live with her during that timeframe except for a period of about three (3) weeks when he stayed with her due to an illness. She added that he had no personal items at her home during this timeframe. She stated that -----received his medical bills at her address. She stated that she and -----were married on March 13, 2010. She stated that she has never lied to the Department in order to receive SNAP benefits. She stated that she did not have a bank account and that she routinely provided ----- with money for the rent and that he would then draft a check in the amount of her rent and submit it to the landlord on her behalf. She stated that the Department never asked her to pursue child support from -----, and that she never received child support from him.
- 11) -----testified that he is a police officer and that he married the Defendant during the month of March 2010. He stated that he never told anyone or "held-out" to anyone in the community that he and the Defendant were married prior to that date. In explaining why his driver's license renewal of June 24, 2009 listed the Defendant's address as his own, he stated that he

purchased a vehicle and provided insurance for the Defendant and it was titled at her address. He further explained that by having her address listed as his own on the license, if the police needed to contact him in the event of emergency, they could do so through her address. He added, "...if I got hurt at work or what have you." He stated that he would want the Police Department to contact her in the event of an emergency. He stated that he and the Defendant had an agreement that he would provide the vehicle and insurance in lieu of child support. He stated that during the period in question he visited his daughter approximately two (2) times per week, and stayed the night occasionally. He stated that during that period he lived at [REDACTED] West Virginia, with his brother and sister-in-law. He stated that the home they lived in was their deceased parents' home, and that he paid taxes on the home along with his brother. He added that none of the utilities at the [REDACTED] home were in his name, but that he received mail at the address. He corroborated the Defendant's testimony in regard to his paying her rent from his checking account after she first gave him the cash to cover the expense. He explained that he did this so that she would have a record of the transaction for her records. He added that he also paid some of her utility bills with the same method. He stated that during the period in question he had no clothes, shoes, or toothbrush at her residence. He stated that he began living with the Defendant when he purchased his home at [REDACTED] around the end of November 2009. When asked what the law requires in regard to updating residential addresses on driver's licenses, -----stated that the law requires that you either update your address to show where you are currently living or to match the address where your vehicles are titled.

- 12) ----- brother, -----, testified that during the period in question -----lived with him and his wife at the [REDACTED] address. He stated that absent a few occasions, -----spent every night during that period at the [REDACTED] address. He estimated the few occasions to be once or twice a month.
- 13) The Defendant's mother, -----, testified that she visited the Defendant during the period in question two (2) or three (3) times per month and that she never saw any of ----- belongings at the home. She stated that she was there at different times and sometimes stayed the night. She stated that the Defendant never told her they were living together, but that she purported to her that they were dating. She stated she believed the Defendant would have told her if she were living with -----.
- 14) The Defendant's friend and co-worker, -----, testified that she visited the Defendant during the period in question. She stated that she visited approximately two (2) times per week, and that she never saw any evidence of -----living with the Defendant.
- 15) Tammy Drumheller, an investigator for the Department, testified that she and Jolynn Marra, who was the Director of the Office of Inspector General at the time, canvassed the Defendant's neighborhood during their investigation in November 2009. None of her testimony is being considered because it refers to statements obtained from other individuals who are not available for cross-examination.
- 16) Jolynn Marra is the former Director of Investigations and Fraud Management for the Department. She testified that she, along with Ms. Drumheller, investigated the circumstances of the Defendant's living arrangements on November 9, 2009. She stated that as part of the

investigation, she and Ms. Drumheller obtained information from various computer data systems such as Department of Motor Vehicles and property tax information which supported that -----lived with the Defendant at the -----address during the period of October 2008 through November 2009. She stated that as a result of their findings, it was concluded that the Defendant made false statements in order to receive SNAP.

- 17) The Defendant presented evidence (D-3) to show that the Defendant married -----on March 13, 2010 and that she applied for a social security card as ----- on March 24, 2010.
- 18) The Defendant presented evidence (D-4) in the form of a copy of ----- West Virginia Employee – [REDACTED] identification tag which was issued on August 19, 2008. The purpose of this submission is not clear as it does not lend any value toward showing whether -----resided with the Defendant during the period in question.
- 19) The Defendant presented evidence (D-5) which shows that -----paid personal property taxes to [REDACTED] County, West Virginia, for the town of [REDACTED] West Virginia, for the tax year of 2009 on November 30, 2009. He also paid personal property taxes to the same county, for the district of [REDACTED] for tax years of 2007 and 2008.
- 20) West Virginia Income Maintenance Manual §1.2 (E) states that it is the client's responsibility to provide information about his circumstances so the worker is able to make a correct decision about his eligibility.
- 21) West Virginia Income Maintenance Manual § 20.2 (C) (2) states in pertinent part:

IPVs include making false or misleading statement, misrepresentations, concealing or withholding information, and committing any act that violates the [SNAP] Act of 1977, [SNAP] regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of [SNAP].

The individual(s) who is found to have committed an IPV is ineligible to participate in the program for a specified time, depending on the number of offenses committed.

Once an IPV is established, a disqualification penalty is imposed on the AG member(s) who committed the IPV.
- 22) Common Chapters Manual 700, Appendix A, Section B, provides that an IPV 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 [SNAP] Act, the [SNAP] Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt or possession of [SNAP] benefits.
- 23) Common Chapters Manual 700, Appendix A, Section G, states that the State Hearing Officer shall base the determination of IPV on clear and convincing evidence which demonstrates that

the household member(s) committed, and intended to commit, an IPV as defined in Section B of this Appendix.

24) Common Chapters Manual §740.22,K., provides in relevant part that in ruling on the admissibility of evidence, the Hearing Officer shall consider:

1. Oral statements of a person made to another (contained in writing or as told by a witness) only when the person making the statement is present at the hearing and available for cross-examination;

4. The following exceptions to the above rules may be admitted into evidence upon the agreement of the parties:

Other evidence presented in written form that is not disputed by either a defendant or the Department may be accepted and considered in making the decision.

25) The Defendant signed the Rights and Responsibilities forms thereby acknowledging the following pertinent responsibilities:

4) I understand if I am found (by court action or an administrative disqualification hearing) to have committed an act of intentional program violation, I will not receive SNAP benefits as follows: First Offense – one year; Second Offense – two years; Third Offense – permanently.

48) I also understand that if I give incorrect or false information or if I fail to report changes that I am required to report, I may be required to repay any benefits I receive and I may also be prosecuted for fraud. I also understand that any person who obtains or attempts to obtain benefits from DHHR by means of a willfully false statement or misrepresentation or by impersonation or any other fraudulent device can be charged with fraud.

49) I certify that all statements on this form have been read by me or read to me and that I understand them. I certify that all the information I have given is true and correct and I accept these responsibilities.

26) West Virginia Income Maintenance Manual §9.1.A.2.h states:

Intentional Program Violation (IPV)

Persons who have been found guilty of an IPV are disqualified as follows:

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

27) The West Virginia State Code §17B-2-8 provides in pertinent part regarding issuance of driver's licenses in the State of West Virginia:

(a) The division shall, upon payment of the required fee, issue to every applicant qualifying therefor a driver's license, which shall indicate the type or general class or classes of vehicle or vehicles the licensee may operate in accordance with this chapter or chapter seventeen-e [§§ 17E-1-1 et seq.] of this code, or motorcycle-only license. Each license shall contain a coded number assigned to the licensee, the full legal name, date of birth, residence address, a brief description and a color photograph of the licensee and either a facsimile of the signature of the licensee or a space upon which the signature of the licensee shall be written with pen and ink immediately upon receipt of the license. No license is valid until it has been so signed by the licensee.

(g) The division may use an address on the face of the license other than the applicant's address of residence if:

- (1) The applicant has a physical address or location that is not recognized by the post office for the purpose of receiving mail;
- (2) The applicant is enrolled in a state address confidentiality program or the alcohol test and lock program;
- (3) The applicant's address is entitled to be suppressed under a state or federal law or suppressed by court order; or
- (4) At the discretion of the commissioner, the applicant's address may be suppressed to provide security for classes of applicants such as law-enforcement officials, protected witnesses and members of the state and federal judicial systems.

-----, a police officer, did not claim in his testimony any of the exemptions provided in the West Virginia State Code for utilizing an address other than the applicant's actual address. It is not found in the West Virginia State Code an allowance for a licensee to list his address on his driver's license other than his actual physical address in order to match an address with which a personal vehicle is titled, as was claimed by -----.

VIII. CONCLUSIONS OF LAW:

- 1) The policy and regulations that govern SNAP state that a SNAP Violation has occurred when an individual intentionally makes a false or misleading statement, or misrepresented, concealed or withheld facts relating to the use, presentation, transfer, acquisition, receipt or possession of SNAP benefits.
- 2) The regulations state there must be clear and convincing evidence that demonstrates the Defendant intentionally committed an IPV.

- 3) The Defendant clearly was aware of her responsibility to report truthful and accurate information and the penalties involved for failing to do so. She read and signed both applications and Rights and Responsibilities forms on numerous occasions during the period in question, which clearly informed her of these responsibilities.
- 4) The evidence is also clear in that the Defendant intentionally reported false information about her household composition by reporting during her November 8, 2008, and May 1, 2009 application interviews that -----did not live in her household, when the evidence clearly shows that he resided with her at the -----address. As a result, his earned income was not considered in determining the Defendant's SNAP eligibility from December 2008 through November 2009.
- 5) Evidence from a prior decision rendered by the Board of Review on January 14, 2010 shows that -----renewed his driver's license on June 24, 2009 with The West Virginia Department of Motor Vehicles and listed his residential address as the same as the Defendant's. Although ---- -, a police officer, testified that West Virginia state law allows a person who is renewing his or her driver's license to choose to either list the actual residential address or to list the address in which a vehicle is titled by that person, the West Virginia State Code states otherwise. West Virginia State Code §17B-2-8 provides specific reasons for which the state may use an address on the face of the license other than the applicant's address of residence, none of which the evidence shows -----met.
- (6) Evidence from the January 14, 2010 decision showed that -----titled a vehicle with the West Virginia Department of Motor Vehicles on March 4, 2009 and listed his address the same as the Defendant's.
- (7) Evidence from the January 14, 2010 decision shows that the Defendant's employer testified that she knows that for a period of time during ----- recovery from illness he either lived with the Defendant or she lived with him in order to help in his recovery. She also offered that she "assumed" that they did not live together other than brief period of time during his recovery. This statement is not specific enough to be of much evidentiary value.
- (8) Evidence submitted by the Department (M-13) shows that on or about July 9, 2008 the Defendant submitted a letter from -----to the Department's child care agency which was documented by the child care agency as stating that verification of child support was obtained in the form of, "letter from child's father stating that he supplied \$100.00 per month." The Department purports that the Defendant never reported any such child support payments and that the child care agency requires that recipients of child care services either be receiving child support or seeking child support. The Defendant purported that the letter referred to in the comments stated that -----is providing diapers for the child in the amount of one hundred dollars (\$100.00). The letter was not provided as evidence by either party. The case comments will be given some weight in support of the Defendant reporting incorrect information regarding income, but does not speak to whether -----was living with the Defendant during the timeframe in question.
- (9) The Defendant's testimony during the current hearing is found to be questionable as it does not match testimony she provided during the January 2010 hearing. She stated during the current

hearing that she never told the landlord that she was married to -----or that he would be living with her; however, she testified during the January 2010 hearing that she portrayed to the landlord prior to renting the house that -----would be living with her. She testified that she never told the neighbors she was married or “held-out” to the neighbors that they were married; however, she testified during her January 2010 hearing that she had no problem with people in her community believing that -----lived in her home, and that she liked for people to believe that she did not live alone. She testified during the current hearing that she never received child support from -----; however, evidence presented during the current hearing (M-14) supports that the Department documented that its child care agency received a letter from the Defendant and purported by her to be written by -----in which he provides that he “supplied \$100.00 per month” as verification of child support.

- (10) -----testified that he renewed his driver’s license with the West Virginia Department of Motor Vehicles on June 24, 2009 and listed his address as the Defendant’s because he had titled a vehicle he owned at the same address. He added that by having her address listed as his own on the license, the police would be able to contact him there in the event of an emergency, as well as contact her if he became injured on the job. He testified that he and the Defendant had an agreement that he would provide her with a vehicle and insurance in lieu of child support; however, the Department’s evidence (M-14) shows that he reportedly paid the Defendant a cash sum monthly. He testified during the current hearing that he began living with the Defendant when he purchased his home at [REDACTED] around the end of November 2009; however, the Defendant testified during the January 8, 2010 hearing that -----did not live with her at the time of the hearing. In fact, she further testified during the January 2010 hearing that she had recently moved to [REDACTED] and that she is renting from -----.
- 11) Although testimony from the Defendant’s brother-in-law, mother, and friend, all support that -----did not live with the Defendant, none of the witnesses were at the Defendant’s home on a regular basis, therefore this evidence is of little value.
- 12) The Department was correct in its determination that the Defendant has committed an IPV by intentionally reporting false information about her household earned income.

IX. DECISION:

The Agency’s proposal to apply a one (1) year Food Stamp disqualification penalty is **upheld**. The penalty will begin September 1, 2011.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 3rd Day of August, 2011.

**Cheryl Henson
State Hearing Officer**