



State of West Virginia  
**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**  
Office of Inspector General  
Board of Review  
9083 Middletown Mall  
White Hall, WV 26554

Earl Ray Tomblin  
Governor

Rocco S. Fucillo  
Cabinet Secretary

September 10, 2012

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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), formerly Food Stamp Program, Administrative Disqualification Hearing held August 30, 2012, for the purpose of determining 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.

Eligibility for the Supplemental Nutrition Assistance Program, hereinafter, SNAP (formerly Food Stamp Program) is based on current policy and regulations. Some of these regulations state as follows: Intentional Program Violations shall consist of having intentionally: 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. 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).

Information submitted at the hearing reveals that you intentionally provided false and misleading information about your shelter expenses in order to receive SNAP benefits to which you were not legally entitled.

It is the decision of the State Hearing Officer that you committed an Intentional Program Violation and a disqualification penalty of one (1) year will be applied. This disqualification will begin effective October 1, 2012.

Sincerely,

Thomas E. Arnett  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Leonard Madia, Repayment Supervisor, WVDHHR

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

-----,

**Defendant,**

v.

**Action Number: 12-BOR-1508**

**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 held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This hearing was convened via videoconference on August 30, 2012.

**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

----, Defendant's mother

Leonard Madia, Repayment Supervisor, WVDHHR

Presiding at the hearing was Thomas E. Arnett, 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 (IPV) and should be disqualified for a specified period from participation in the SNAP.

**V. APPLICABLE POLICY:**

7 CFR § 273.16 USDA Code of Federal Regulations  
Common Chapters Manual Chapter 700  
West Virginia Income Maintenance Manual Chapters 1.2, 2.2, and 20.2

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

**Department's Exhibits:**

- D-1 Benefit Recovery Referral sent to Investigations and Fraud Management (IFM)
- D-2 Notification of Intent to Disqualify (IG-BR-44) and Waiver of Administrative Disqualification Hearing (IG-BR-44a) dated 6/6/12
- D-3 7 CFR § 273.16 USDA Code of Federal Regulations
- D-4 Response from ----
- D-5 Answer to Complaint, filed in the Magistrate Court of ---- County, WV – Case No.: 08-C-207 Allman, on 8/25/08
- D-6 Combined Application and Review Form (CAF), Request for Assistance, and Rights and Responsibilities – signed on 8/31/06
- D-7 Combined Application and Review Form (CAF), Request for Assistance, and Rights and Responsibilities – signed on 9/21/06
- D-8 Combined Application and Review Form (CAF), Request for Assistance, and Rights and Responsibilities – signed on 1/31/07
- D-9 Combined Application and Review Form (CAF), Request for Assistance, and Rights and Responsibilities – signed on 8/2/07
- D-10 Combined Application and Review Form (CAF), Request for Assistance, and Rights and Responsibilities – signed on 2/15/08
- D-11 Food Stamp (SNAP) Claim Determination for March 2011 through June 2011
- D-12 West Virginia Income Maintenance Manual Chapter 1.2
- D-13 West Virginia Income Maintenance Manual Chapter 2.2.B
- D-14 West Virginia Income Maintenance Manual Chapter 2.2.B.4
- D-15 West Virginia Income Maintenance Manual Chapter 20.2

**VII. FINDINGS OF FACT:**

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from the Investigation and Fraud Management (IFM) unit on June 21, 2012. Leonard Madia, representing the Department of Health and Human Resources (Department), contends that the Defendant has committed an Intentional Program Violation (IPV), and therefore, is recommending the Defendant be disqualified from participation in the Supplemental Nutrition Assistance Program, hereinafter SNAP (formerly Food Stamp Program), for a period of one (1) year.

- 2) The Department contended that the Defendant intentionally violated SNAP regulations by providing false information about her shelter expenses in order to receive more SNAP benefits than she was entitled to receive. The Department submitted the Combined Application and Review Forms (CAFs), identified as Exhibits D-6 through D-10, to demonstrate that the Claimant completed no fewer than five (5) different applications for SNAP benefits and reported on each occasion that she was paying rent to ----. The monthly amount of rent increased from \$200 per month (D-6) to \$325 per month (D-10).
- 3) As a matter of record, the Defendant stipulated that her signature appears on all of the CAFs and that she reported paying the rent amount included in each of the applications. The Department contended, however, that it received information from ---- (D-4) indicating that the Defendant never paid him rent. ---- reported that the Defendant and her children lived with him in his home when she was his girlfriend. ---- further denied signing any of the lease agreements provided by the Defendant (also included in Exhibit D-4).
- 4) The Department submitted Exhibit D-5, an Answer to Complaint in the Magistrate Court of ---- County, West Virginia, wherein the Defendant, ----, denied the matter set forth in a complaint filed by ---- (Plaintiff), and raised a defense by answering with a statement of facts. While it is unclear what the complaint included, five (5) of the Defendant's eleven (11) statements of fact are relevant to this matter.
  1. Plaintiff and Defendant were involved in a family style relationship for 3 years, until June 2008.
  2. Plaintiff and Defendant lived together during the entire relationship at Plaintiff's home at -----.
  3. Defendant moved all of her personal belongings and three children to Plaintiff's home in 2006.
  4. Plaintiff and Defendant shared household expenses such as groceries, utilities, and maintenance up until June 29<sup>th</sup>, 2008.
  6. Plaintiff filed his 2006 Federal Tax Returns by way of "Head of Household" and claimed Defendant and her three children as Dependents on form 1040.

The Defendant signed this document on August 25, 2008, indicating - "I, ----, attest that the facts presented in this answer to complaint are true and accurate to the best of my ability."

- 5) The Department submitted Exhibit D-11 to demonstrate that by providing false and untruthful information about household shelter/rental expenses, the Defendant received \$392 in SNAP benefits during the period November 2006 through August 2008 to which she was not legally entitled.

6) The Defendant presented testimony to indicate that the lease agreements included in Exhibit D-4 were scrutinized in another legal matter involving ----, and a court order had been drafted which includes language verifying that a handwriting analysis had been completed and the determination made that it was ---- signature. The Defendant indicated that she had been in contact with the circuit clerk, but they were unable to locate the order and the attorney who represented her in the matter had been out of town. While the Claimant was provided thirty (30) days advance notice of the scheduled Administrative Disqualification Hearing, the record remained open until the close of business on September 7, 2012, to afford her the opportunity to provide any legal documentation that could corroborate her claim regarding the findings of an expert handwriting analysis. It should be noted that no additional documentation was received from the Defendant.

7) By signing the CAF on the date of application/review, the Defendant agreed to the following:

I understand my responsibility to provide complete and truthful information. I have reviewed or had read to me the information contained in this automated portion of the application form and I understand the information. I understand that it is a criminal violation of federal and state law to provide false or misleading information for the purpose of receiving benefits to which I am not by law entitled. Under penalty of perjury, I certify that the statements are true and correct.

8) The Rights and Responsibilities form completed and signed by the Defendant on the date of SNAP application/review includes the following statement:

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 Food Stamp benefits as follows: First Offense – one year; Second Offense – two years; Third Offense - permanently. In addition, I will have to repay any benefits received for which I was not eligible.

By signing the Rights and Responsibilities, the Defendant certified that she read, understood, and accepted the rights and responsibilities, and that all of the information she provided was true and correct.

9) West Virginia Income Maintenance Manual, Chapter 1.2 (E):

The client's responsibility is to provide information about his circumstances so the worker is able to make a correct decision about his eligibility.

10) West Virginia Income Maintenance Manual, Chapter 2.2.B states that all SNAP AGs must report changes related to eligibility and benefit amount at application and redetermination.

- 11) West Virginia Income Maintenance Manual, Chapter 20.2:

When an AG (assistance group) has been issued more Food Stamps 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.

- 12) West Virginia Income Maintenance Manual, Chapter 20.2 (C) (2):

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

- 13) West Virginia Department of Health and Human Resources, Common Chapters Manual §740.11.D:

Intentional Program Violation - For the purpose of determining through an Administrative Disqualification Hearing whether or not a person has committed an Intentional Program Violation, the following criteria will be used. 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 for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system access device.

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

- 1) The regulations that govern SNAP benefits state that a SNAP violation has occurred when an individual has intentionally made a false or misleading statement, or misrepresented, concealed or withheld facts relating to the use, presentation, transfer, acquisition, receipt or possession of SNAP/Food Stamp benefits.
- 2) Evidence reveals that the Defendant provided false and misleading information about her monthly household shelter (rent) expenses in order to receive SNAP benefits to which she was not legally entitled. This clearly establishes intent.
- 3) The evidence is clear and convincing that the Defendant intentionally committed a SNAP violation as defined in the regulations.
- 4) In accordance with SNAP regulations, an Intentional Program Violation has been committed and a disqualification penalty must be applied. The disqualification for a first-time offense is 12 months (one year).

- 5) Only the Defendant is subject to this disqualification. The one-year disqualification will begin effective October 1, 2012.

**IX. DECISION:**

The Department's proposal to apply a SNAP disqualification is **upheld**. The disqualification period will begin effective October 1, 2012.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_ Day of September 2012.**

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**Thomas E. Arnett  
State Hearing Officer**