



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

Rocco S. Fucillo
Cabinet Secretary

September 24, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your Administrative Disqualification Hearing held September 13, 2012, for the purpose of determining whether or not an Intentional Program Violation occurred.

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 (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 made a false statement at your January 2012 SNAP application by reporting ----- as a member of your household.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to impose an Intentional Program Violation against you for 12 months, effective November 2012.

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.: 12-BOR-1864

**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 convened on September 13, 2012, 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 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 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.

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

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 SNAP Claim Determination Form
- 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 Case Members History Screen (AQCM) from RAPIDS Computer System
- D-7 Case Comments (CMCC) from RAPIDS Computer System
- D-8 Initial Order Upon Filing of Petition dated December 21, 2011, from ----- County Circuit Court
- D-9 Custody Status from FACTS Computer System
- D-10 Combined Application and Review Form dated January 3, 2012
- D-11 Rights and Responsibilities Form dated January 3, 2012
- D-12 Overpayment Notification Letter dated July 12, 2012
- D-13 Notification of Intent to Disqualify dated July 12, 2012
- D-14 WV Income Maintenance Manual § 1.2 E
- D-15 WV Income Maintenance Manual § 9.1 A
- D-16 WV Income Maintenance Manual § 20
- D-17 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 August 2, 2012. 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 August 10, 2012. Defendant failed to appear for the hearing and did not 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 benefits on January 3, 2012 (D-10). She reported to her caseworker that her household consisted of herself and her daughter, ----- (D-7). SNAP benefits were approved based on the information provided.

- 4) On April 10, 2012, Defendant applied for WV WORKS benefits for herself and ----- (D-7). Ongoing SNAP benefits were approved based on the information provided by Defendant.
- 5) Defendant's caseworker was notified by Child Protective Services that custody of ----- had been awarded to the Department and she was placed in foster care on December 21, 2011 (D-8).

The Department contends Defendant intentionally misrepresented her household composition by reporting her daughter as residing in her household at her SNAP application in January 2012, when ----- had been placed in foster care. The result of the misrepresentation was an overpayment of SNAP benefits of \$657, issued to Defendant from January 2012 through April 2012 (D-2, D-3 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 § 9.1 A(1) states:

The SNAP AG must include all eligible individuals who both live together and purchase and prepare their meals together.

- 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 Food Stamp Act, the SNAP 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 January 2012 SNAP application by reporting her daughter as a member of her household, when in fact she had been placed in foster care in December 2011. The result of Defendant's willful misrepresentation of her household composition resulted in an overpayment of SNAP benefits issued for which she was 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 for 12 months against Defendant effective November 2012.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 24th day of September 2012

Kristi Logan
State Hearing Officer