



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
203 E. Third Avenue  
Williamson, WV 25661

Earl Ray Tomblin  
Governor

Rocco S. Fucillo  
Cabinet Secretary

November 27, 2012

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Dear Ms. ----:

Attached is a copy of the Findings of Fact and Conclusions of Law on the Supplemental Nutrition Assistance Program (SNAP) Administrative Disqualification Hearing held October 10, 2012, for the purpose of determining whether an Intentional Program Violation (IPV) was committed by you.

In arriving at a decision, the State Hearing Officer is governed by the Public Welfare Laws of West Virginia and 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.

An Intentional Program Violation consists of intentionally having 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 Section 20.2.C.2 and 7 CFR Section 273.16 (c)]

Information submitted at the hearing reveals that you intentionally withheld the fact that you had been convicted of a drug-related felony in order to receive SNAP benefits for which you were not entitled.

It is the decision of the State Hearing Officer that an Intentional Program Violation was committed by you and a disqualification penalty of one (1) year will be applied. Your disqualification from SNAP will begin effective January 1, 2013.

Sincerely,

Stephen M. Baisden  
State Hearing Officer  
Member, State Board of Review

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

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

**IN RE:** ----,

**Defendant,**

v.

**ACTION NO.: 12-BOR-1950**

**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 Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. The hearing was convened on October 10, 2012, at the ---- County office of the WV DHHR in ---, WV.

**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

Christine Allen, Repayment Investigator, Department's Representative

Presiding at the hearing was Stephen M. Baisden, State Hearing Officer and a member of the State Board of Review.

The Hearing Officer placed both participants under oath at the beginning of the hearing.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Defendant committed an Intentional Program Violation (IPV) and should be disqualified for a specified period from participation in SNAP.

**V. APPLICABLE POLICY:**

7 CFR §273.16 Code of Federal Regulations

Common Chapters Manual, Chapter 700

West Virginia Income Maintenance Manual: Chapter 1.2.E, Chapter 9.1.A.2, Chapter 20.1 and 20.2

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

**Department's Exhibits:**

M-1 IG-BR-31 Hearing Summary

M-2 ES-FS-5 SNAP Claim Determination sheet

M-3 IQFS Screen Print from RAPIDS computer system showing SNAP issuance history

M-4 EFAD Screen Print from RAPIDS showing SNAP allotment determination calculations for the months of March, April and May 2012, for Defendant's SNAP benefits

M-5 AQCM Screen print from RAPIDS showing case member history

M-6 CMCC Screen print from RAPIDS showing Income Maintenance worker case comments made from March 16, 2012, through April 23, 2012, in Defendant's case

M-7 Print-out from ---- County, ----, Circuit Court, Criminal Division, computer case-tracking system

M-8 Copy of Combined Application Form dated and signed by Defendant on March 16, 2012

M-9 Copy of Rights and Responsibilities Form dated and signed by Defendant on March 16, 2012

M-10 Copy of appointment letter (IFM-1-7d) sent to Defendant on May 14, 2012, asking her to meet with Repayment Investigator on June 6, 2012, to discuss the SNAP program violation

M-11 Copy of IFM-BR-44 Waiver of Administrative Disqualification Hearing form and IFM-BR-44a Notice of Intent to Disqualify form dated May 14, 2012

M-12 Copy of Income Maintenance Manual Chapter 1.2.E showing client responsibility for providing accurate information

M-13 Copy of Income Maintenance Manual Chapter 9.1 showing SNAP eligibility determination groups and the effects of felony drug convictions on SNAP eligibility

M-14 Copy of Income Maintenance Manual Chapter 20.1 and 20.2 showing SNAP overpayment claims and repayment procedures

M-15 Copy of the Code of Federal Regulations (CFR) §273.16 showing disqualifications for Intentional Program Violations

## VII. FINDINGS OF FACT:

- 1) The Department is alleging an act of Intentional Program Violation, or IPV, in the Defendant's SNAP case because she allegedly reported during a SNAP application interview that she never had been convicted of a drug-related felony, when in fact she had been convicted of such a felony in the Circuit Court of ---- County, ----.
- 2) On March 16, 2012, Defendant appeared at the WV Department of Health and Human Resources, ---- County office in ----, WV, and completed an application for SNAP benefits. She reported at this interview that she was the only person in her SNAP assistance group, that she lived with adult family members and paid no shelter or utility costs, and that she had no income. Defendant's monthly SNAP allotment was calculated on this basis. An Economic Service Worker (ESW) recorded on March 16, 2012, that Defendant completed the application with the above information. (Exhibit M-6.) The worker did not record that Defendant informed her of any drug-related criminal convictions. At the conclusion of the application interview, Defendant signed and dated a DFA-RFA-1, an application form which contained information she had given the worker during the interview. (Exhibit M-8.) She also signed and dated a DFA-RR-1, a Rights and Responsibilities form. (Exhibit M-9.) The application form signature page states,

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.

The DFA-RR-1, Rights and Responsibilities form is a list of applicants' rights and responsibilities for each program for which an applicant applies. The applicant signifies that he or she is aware of each right or responsibility by checking "Yes" or "No" at each item. Under the SNAP section of the form, item #4 states,

I understand if I am found (by court action or 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. In addition, I will have to repay any benefits received for which I was not eligible.

Under the "For All Programs" section of the form, item #47 states,

I . . . 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 also may be prosecuted for fraud.

Defendant has marked "Yes" at both of these items.

- 3) Department's Representative stated that after Defendant's SNAP application was approved, the worker who processed the application received by mail an application for Medicaid from the Defendant. She stated that the worker who processed Defendant's SNAP application recorded on April 23, 2012, "Received [Medicaid] application dated 04/20/12. Called [Defendant] to complete application. [Defendant] is a drug felony [*sic*] call[ed] ---- [Defendant] was charged with felony [*sic*] in 03/12. . ." Exhibit M-6, page 2.)
- 4) Department's Representative stated she contacted the Circuit Court of ---- County, ----, to request verification of Defendant's felony drug conviction. She submitted into evidence a print-out from the ---- County, ----, Circuit Court, computer case-tracking system (Exhibit M-7) indicating Defendant had been arrested on October 28, 2006, and charged with felony possession of a controlled substance. The "Final Disposition" section of the print-out indicates that the disposition date for this charge was March 15, 2012, the day before Defendant applied for SNAP benefits in ---- County, WV, and that Defendant was found guilty.
- 5) Department's Representative stated she completed a Food Stamp [SNAP] Claim Determination form, wherein she calculated that Defendant was overpaid SNAP benefits for the months of March, April and May, 2012, and that the amount of the overpayment was \$500. (Exhibit M-2.)
- 6) Defendant testified that when she applied for SNAP benefits on March 16, 2012, she told her worker that she had just gotten out of jail. She said the worker told her that would not be a problem. However, she stated, she had been incarcerated for another charge and she did not tell the worker about the separate drug felony conviction. She stated that was a mistake on her part. She did not offer a substantial rebuttal to the Department's evidence.
- 7) The Code of Federal Regulations, 7 CFR §273.16(c) (Exhibit M-15), defines an Intentional Program Violation (IPV) as:
  - (c) Definition of Intentional Program Violation. 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 Food Stamp Act, the Food Stamp Program [SNAP] 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).
- 8) The West Virginia Income Maintenance Manual, Chapter 1.2.E (Exhibit M-12), 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 . . . The

client must be instructed that his failure to fulfill his obligation may result in one or more of the following actions: denial of the application; closure of the active AG [assistance group]; removal of the individual from the AG; repayment of benefits; reduction in benefits.

9) The West Virginia Income Maintenance Manual, Chapter 9.1.A.2.g (Exhibit M-13) states that individuals who are “convicted of a felony offense which occurred on or after 8/23/96 which involved possession, use or distribution of a controlled substance as defined by section 802 (6) of the Controlled Substance Act” are permanently excluded from participating in the SNAP program.

10) The West Virginia Income Maintenance Manual, Chapter 20.2.C.2 (Exhibit M-17), states:

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

11) The West Virginia Income Maintenance Manual, Chapter 20.6.A states:

A willfully false statement is one that is deliberately given, with the intent that it be accepted as true, and with the knowledge that it is false. [I]t is not essential that an affirmative representation be made. Misrepresentation may also be the suppression of what is true, as well as in the representation of what is false.

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

The Department has established that the Defendant made a willful (or intentional) false statement in that she did not inform the worker with whom she completed a SNAP benefits application on March 16, 2012, that she had been convicted of a drug-related felony. She signed an application form which did not contain the felony drug conviction information, and she signed a Rights and Responsibilities form indicating she was aware of her responsibility to provide complete and accurate information and of the penalties for not doing so.

## **IX. DECISION:**

Failing to report that a person has been convicted of a drug-related felony during an application for SNAP benefits is a clear violation of the regulations. Based on the evidence presented, I find the violation intentional.

The Agency’s proposal to apply a SNAP disqualification is **upheld**. The Defendant will be disqualified from participation in SNAP for a period of twelve (12) months effective January 1, 2013.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 27<sup>th</sup> Day of November, 2012.**

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**Stephen M. Baisden  
State Hearing Officer**