



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

November 7, 2012

Dear Ms. ----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your Administrative Disqualification Hearing held October 23, 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 state that 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).

The information submitted at your hearing revealed that you made false statements to the Department regarding your household composition by reporting your daughter as residing in your household, when in fact she had been residing with her grandparents since 2009.

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 24 months, effective December 2012.

Sincerely,

Kristi Logan
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Cassie Burns, Repayment Investigator

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

IN RE: ----,

Defendant,

v.

ACTION NO.: 12-BOR-2094

**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 held on October 23, 2012, by telephone conference. This hearing was held in accordance with the provisions found in the West Virginia Department of Health and Human Resources Common Chapters Manual, Chapter 700.

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:

Cassie Burns, 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
Code of Federal Regulations- 7 CFR § 273.16

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Code of Federal Regulations- 7 CFR § 273.16
- D-2 SNAP Claim Calculations Sheets and SNAP Allotment Determination Screens (EFAD) from RAPIDS Computer System
- D-3 Case Comments (CMCC) from RAPIDS Computer System dated April 12, 2010
- D-4 Statement from ---- dated June 8, 2011
- D-5 ---- County, ---- Magistrate's Decision dated January 27, 2010
- D-6 Head Start Application dated June 14, 2010
- D-7 Verification of Benefits from ---- County Department of Job and Family Services dated December 17, 2009, and Birth Certificate for ----
- D-8 WV Safety First/Safety Plan dated April 21, 2009
- D-9 Combined Application and Review Form and Rights and Responsibilities Form dated September 23, 2010
- D-10 Case Comments (CMCC) from RAPIDS Computer System dated September 15, 2010
- D-11 Combined Application and Review Form and Rights and Responsibilities Form dated November 23, 2010
- D-12 Case Comments (CMCC) from RAPIDS Computer System dated November 23, 2010
- D-13 Combined Application and Review Form and Rights and Responsibilities Form dated February 2, 2011
- D-14 Case Comments (CMCC) from RAPIDS Computer System dated February 2, 2011
- D-15 Combined Application and Review Form and Rights and Responsibilities Form dated April 7, 2011
- D-16 Case Comments (CMCC) from RAPIDS Computer System dated April 7, 2011
- D-17 WV Income Maintenance Manual § 1.2 E
- D-18 WV Income Maintenance Manual § 20.2
- D-19 WV Income Maintenance Manual § 20.6
- D-20 Food and Nutrition Services Electronic Disqualification Recipient System (eDRS)
- D-21 Notification of Intent to Disqualify dated August 9, 2012

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, Cassie Burns, on August 30, 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 24 months.

- 2) Defendant was notified of the hearing by letter sent by this Hearing Officer on September 7, 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) On April 9, 2010, Defendant reported to her caseworker (D-3) that her daughter, ----, had returned to her household. ---- was added to Defendant's SNAP benefits based on the information provided.

Defendant completed a WV WORKS application on September 23, 2010 (D-9). Defendant reported ---- as a member of her household (D-10) and WV WORKS benefits and ongoing SNAP benefits were approved.

Defendant applied for adult Medicaid (D-11) for herself on November 23, 2010, and was approved based on the deprivation factor that her child, ----, was in the home (D-12) but her father was not.

Defendant reapplied for WV WORKS benefits (D-13) on February 2, 2011, and reported to her caseworker that ---- remained in her home (D-14). Defendant reapplied for SNAP benefits (D-15) on April 7, 2011, and no changes in the household were reported (D-17).

- 4) The Department discovered that Defendant's daughter, ----, had been residing with her paternal grandparents, ----, since April 2009. A statement from ---- (D-4) was obtained on June 8, 2011, which reads in pertinent part:

---- is five (5) years old. She came to live with us on a full time basis in April 2009. A CPS worker from ---- WV DHHR called me and wanted me to bring ---- in her office so she could see ----. I brought her into the office. After that I asked for temporary custody of ---- and we got her then. We had to go to court in ----- to apply for full custody. [Defendant] got visitation through the temporary order but ---- stayed and lived with us.

- 5) The Department obtained a copy of the custody order (D-5) from ---- County, ---- showing custody of ---- was granted to ---- on January 27, 2010, with supervised visitation granted to Defendant.

---- enrolled ---- in Head Start (D-6) in ---- County, ----- in June 2010 and also started receiving Medicaid (D-7) for ---- that month as well. A safety plan (D-8) was completed in April 2009, which documented that ---- was residing with her grandparents.

- 6) The Department contends Defendant made false statements regarding her household composition by reporting ---- as a member of her household. The result of the

willful misrepresentation was an overpayment of SNAP benefits of \$2098 (D-2) issued to Defendant for which she was not entitled to receive.

7) 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 the application
- Closure of the active AG [assistance group]
- Removal of the individual from the AG
- Repayment of benefits
- Reduction in benefits

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) 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

10) 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 numerous false statements on numerous occasions by reporting her daughter as residing in her household, when in fact her daughter had been residing with her grandparents since April 2009. The Department presented indisputable evidence that Defendant's daughter did not reside with her when she requested her daughter be added to her SNAP benefits and during subsequent SNAP reviews. The result of the willful misrepresentation of her household circumstances was an overpayment of SNAP benefits issued to Defendant for which she was not eligible to receive.

IX. DECISION:

It is the decision of the State Hearing Officer that Defendant committed an Intentional Program Violation. A second offense sanction will be placed against Defendant for 24 months, effective December 2012.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 7th day of November 2012

**Kristi Logan
State Hearing Officer**