



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

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

January 13, 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) Administrative Disqualification Hearing held on November 21, 2011 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 provided false and misleading information about your income 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 February 1, 2012.

Sincerely,

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

cc: Erika Young, Chairman, Board of Review  
Brian Shreve, Repayment Investigator

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

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

**Defendant,**

v.

**ACTION NO.: 11-BOR-2101**

**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 concluded on January 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. The hearing was convened via videoconference on November 21, 2011, with Department's Representative at the [REDACTED] County office of the WV DHHR in [REDACTED] WV, and the Hearings Examiner at the [REDACTED] County office of the WV DHHR in [REDACTED] 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:**

Brian Shreve, Repayment Investigator.

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

The Hearing officer placed participant 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 20.2 and 20.6

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

**Department's Exhibits:**

- M-1 Copy of the Code of Federal Regulations (CFR) §273.16 showing disqualifications for Intentional Program Violations.
- M-2 BVRF Screen print from RAPIDS System showing referral for recoupment.
- M-3 ES-FS-5, SNAP Claim Determination sheet.
- M-4 Case recording from Defendant's SNAP case record, dated June 9, 2011.
- M-5 Screen print from the WV Bureau of Employment Programs showing Unemployment Compensation Insurance (UCI) payment history for Defendant.
- M-6 Copy of Combined Application Form and Rights and Responsibilities Form dated and signed by Defendant on January 19, 2011.
- M-7 Case recording from Defendant's SNAP case record, dated January 19, 2011.
- M-8 Copy of Income Maintenance Manual Chapter 1.2.E showing customer responsibility for providing accurate information.
- M-9 Copy of Income Maintenance Manual Chapter 20.2 showing SNAP benefit claims and repayment procedures.
- M-10 Copy of Income Maintenance Manual Chapter 20.6.A showing definitions of Welfare Fraud.
- M-11 Copy of IFM-BR-44 Waiver of Administrative Disqualification Hearing form and IFM-BR-44a Notice of Intent to Disqualify form, sent to Defendant on August 16, 2011.

**VII. FINDINGS OF FACT:**

- 1) The Department is alleging an act of Intentional Program Violation, or IPV, in the Defendant's SNAP case because he allegedly reported during a SNAP application interview that he received no earned or unearned income, while he was receiving Unemployment Compensation Insurance (UCI.)
- 2) Defendant was mailed notice of the Administrative Disqualification Hearing on October 18, 2011, by first class mail. The notice was sent to [REDACTED] WV [REDACTED] This is the address at which Defendant receives his public assistance benefits.

- 3) The hearing was scheduled for 10:00 a.m. on November 21, 2011, and as of 10:15 a.m., the Defendant failed to appear. As set forth in regulations (7 CFR §273.16(e) (4)), and State Policy (West Virginia Department of Health and Human Resources Common Chapters Manual, 740.20), the hearing convened at 10:15 a.m., and was conducted without the Defendant in attendance.
- 4) On January 19, 2011, a worker at the WV Department of Health and Human Resources, ██████ County Office in ██████ WV, recorded that Defendant completed an application for SNAP benefits. (Exhibit M-7.) On the application, Defendant reported that his SNAP assistance group (AG) consisted of himself only, and he received no earned or unearned income. At the conclusion of the application interview, Defendant signed and dated a DFA-RFA-1, a Common Application Form (CAF) which contained information he had given the worker during the interview and a DFA-RR-1, a Rights and Responsibilities form. (Exhibit M-6.) The CAF 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 Program 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.

Defendant has marked "Yes" at this item.

- 5) On June 9, 2011, another worker at the WV DHHR, ██████ County Office, recorded that Defendant completed a SNAP telephone review. (Exhibit M-4.) The worker recorded that Defendant again reported that he received no earned or unearned income. The worker recorded that he or she checked the WV Department of Employment Programs after this review and determined that Defendant received UCI benefits. The worker recorded that he or she reported this information to the Investigations and Fraud Management (IFM) unit of the WV DHHR.

- 6) Department's representative, the Repayment Investigator who conducted the investigation into Defendant's SNAP case, testified that he received a repayment referral (Exhibit M-2) on Defendant due to his failure to report unearned income. He submitted into evidence a screen print from the WV Bureau of Employment Programs (BEP) indicating that Defendant received UCI benefits beginning in August 2010 and continuing through the investigation period of January 2011 to July 2011. (Exhibit M-5.)
- 7) Department's representative submitted into evidence a Food Stamp [SNAP] Claim Determination form, wherein he calculated Defendant was overpaid SNAP benefits from January 2011 to July 2011, and that the overpayment amount was \$1096. (Exhibit M-3.)
- 8) The Code of Federal Regulations, 7 CFR §273.16(c) (Exhibit M-1), 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).

- 9) The West Virginia Income Maintenance Manual, Chapter 1.2.E (Exhibit M-8), 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.

- 10) The West Virginia Income Maintenance Manual, Chapter 20.2.C.2 (Exhibit M-9), 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 (Exhibit M-10) 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 willful (or intentional) false statements to the effect that he received no earned or unearned income during a SNAP benefits application on January 19, 2011, and a SNAP review on June 9, 2011, when he was receiving Unemployment Compensation Insurance. He signed application forms to the effect that he received no income, and these forms clearly stated the penalties for not providing complete and accurate information.

**IX. DECISION:**

Falsely reporting during a SNAP application or review that one receives no income, when one receives Unemployment Compensation Insurance, 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 February 1, 2012.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 13<sup>th</sup> Day of January, 2012.**

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**Stephen M. Baisden  
State Hearing Officer**