



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

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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 used your son's SNAP benefits while he was incarcerated.

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 December 2012.

Sincerely,

Kristi Logan  
State Hearing Officer  
Member, State Board of Review

cc: Chairman, Board of Review  
Vickie Adkins, Repayment Investigator

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

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

**Defendant,**

**v.**

**ACTION NO.: 12-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 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:**

Vickie Adkins, 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 § 9.1 and 20.6  
Code of Federal Regulations- 7 CFR § 273.16

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

**Department's Exhibits:**

- D-1 Electron Benefit Transfer Transaction History
- D-2 Request for Replacement of Food Stamp Coupons or Food Purchased with Food Stamp Benefits dated July 11, 2012 and Case Comments (CMCC) from RAPIDS Computer System
- D-3 Prisoner Match Information Display Screen from Data Exchange System
- D-4 Waiver of Administrative Disqualification Hearing dated August 15, 2012, Repayment Agreement dated August 15, 2012, and Statement from ---- dated August 15, 2012
- D-5 Combined Application and Review Form dated August 23, 2011
- D-6 Combined Application and Review Form dated April 21, 2011
- D-7 WV Income Maintenance Manual § 20.6
- D-8 WV Income Maintenance Manual § 20.2
- D-9 WV Income Maintenance Manual § 9.1
- D-10 WV Income Maintenance Manual § 1.4

**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, Vickie Adkins, on August 31, 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 September 13, 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) The Department received a complaint that Defendant was using her son's Electronic Benefit Transfer (EBT) card while he was incarcerated and had applied for a replacement for his SNAP benefits.
- 4) The Department verified Defendant's son, ---- ----, had been incarcerated since June 18, 2012 (D-3). The transaction history for his EBT card (D-1) showed activity throughout Mr. ----'s incarceration. Additionally, a Request for Replacement of Food Purchased with SNAP Benefits (D-2) was submitted to the Department on July 12, 2012, for ---- --

--, for a replacement of food purchased with the EBT card that was lost due to a power outage.

- 5) The Department obtained a statement (D-4) from ---- ---- on August 15, 2012, which reads in pertinent part:

I, ---- ----, have been incarcerated at ----Jail since 6-18-12. To my knowledge I have not given anyone permission to use my Food Stamp card. Before I came in here my mother, [Defendant], and my aunt ---- and my grandmother, ---- had my pin # due to I had let them go to the store for me before. When I came in here my mom and aunt told me each other had stolen the card because it was gone. My mom said my aunt stole it and my aunt said my mom stole my card. When ---- showed me the paper that was signed to come in to get replacement Food Stamps I said it was my mom's writing.

- 6) Vickie Adkins, Repayment Investigator, pointed out that the signatures on the SNAP replacement request form (D-2) and a SNAP review form (D-5) for ---- ---- did not match. Ms. Adkins presented a SNAP review form (D-6) for Defendant and the handwriting on this form appears to match that of the SNAP replacement form.

The Department contends Defendant used SNAP benefits that were issued to ---- ---- and fraudulently applied for a SNAP replacement while he was incarcerated. Defendant used SNAP benefits which were not intended for her use in the amount of \$647.

- 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) WV Income Maintenance Manual § 20.6 A states:

The principle statute dealing with obtaining welfare assistance through misrepresentation is Section 4, Article 5, Chapter 9, of the Code of West Virginia, 1936 as amended:

Any person who obtains or attempts to obtain, or aids or abets an applicant or recipient in obtaining or attempting to obtain, by means of a

willfully false statement or misrepresentation or by impersonation or any other fraudulent device:

Any class of welfare assistance to which the applicant or recipient is not entitled; or

Any class of welfare assistance in excess of that to which the applicant or recipient is justly entitled

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) The Department presented clear and convincing evidence that Defendant used her son's EBT card during the time he was incarcerated. Additionally, Defendant requested benefit replacement of her son's SNAP benefits by forging his name on the request form. Defendant obtained SNAP benefits for which she was not entitled to receive.

**IX. DECISION:**

It is the decision of the State Hearing Officer that Defendant committed an Intentional Program Violation. A 12 month penalty will be imposed against Defendant effective December 2012.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 7<sup>th</sup> day of November 2012**

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**Kristi Logan**  
**State Hearing Officer**