



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

February 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 December 15, 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 household composition 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 March 1, 2012.

Sincerely,

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

cc: Erika Young, Chairman, Board of Review  
Cassandra Burns, Repayment Investigator

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

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

**Defendant,**

**v.**

**ACTION NO.: 11-BOR-2277**

**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 February 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. This Fair Hearing was convened via videoconference on December 15, 2011, with the Defendant and the Department's Representative at the ( ) County office of the WV DHHR in ( ) WV, and the Hearings Examiner 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

Cassandra Burns, 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 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, Food Stamp (SNAP) Claim Determination.
- M-4 Final Order on Emergency Petition for Custody from Family Court of ██████ County, WV, dated April 19, 2010.
- M-5 Written statement from father of Defendant's child, dated July 20, 2011.
- M-6 School attendance verification request from Repayment Investigator, dated July 20, 2011, and attached response from ██████ County High School, ██████ WV.
- M-7 Copy of Combined Application Form and Rights and Responsibilities Form dated and signed by Defendant on August 19, 2010.
- M-8 Case recording from Defendant's SNAP case record, dated August 19, 2010.
- M-9 Copy of Combined Application Form and Rights and Responsibilities Form dated and signed by Defendant on February 2, 2011.
- M-10 Case recording from Defendant's SNAP case record, dated February 2, 2011.
- M-11 Copy of Income Maintenance Manual Chapter 1.2.E showing customer responsibility for providing accurate information.
- M-12 Copy of Income Maintenance Manual Chapter 20.2 showing SNAP benefit claims and repayment procedures.
- M-13 Copy of Income Maintenance Manual Chapter 20.6.A showing definitions of Welfare Fraud.
- M-14 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 October 14, 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 she allegedly reported during SNAP application interviews in August 2010 and February 2011 that her household consisted of herself and her two children, while one of the children lived with the child's father.
- 2) On April 27, 2011, the Investigations and Fraud Management unit of the WV DHHR received a referral from the ██████ County DHHR, Income Maintenance unit (Exhibit M-2), indicating that one of Defendant's two children listed in her household had not lived with her since "before April 2010."
- 3) On August 19, 2010, 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-8.) On the application, Defendant reported that her SNAP assistance group (AG) consisted of herself and her two children. At the conclusion of the application interview, Defendant signed and dated a DFA-RFA-1, a Common Application Form (CAF) which contained information she had given the worker during the interview and a DFA-RR-1, a Rights and Responsibilities form. (Exhibit M-7.) The CAF signature page states,

I understand it is 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 individual 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.

Under the "For All Programs" section of the form, item #49 states,

I certify that all statements on this form have been read by me or to me and that I understand them. I certify that all the information I have given is true and correct and I accept these responsibilities.

Defendant has marked “Yes” at each of these items.

- 4) On February 2, 2011, a second worker at the WV DHHR, ██████ County Office, recorded that Defendant completed another SNAP application. (Exhibit M-10.) The worker recorded that Defendant again reported her household consisted of herself and her two children. Defendant signed and dated CAF and Rights and Responsibilities forms to that effect. (Exhibit M-9.) A third worker recorded in Defendant’s SNAP case on April 27, 2011 that she received a memo from a worker in the Bureau of Child Support Enforcement (BCSE) stating the older of Defendant’s two children had not been living in Defendant’s home since “before April 2010.” (Exhibit M-10, third page.) The worker recorded that she sent a referral to the Investigations and Fraud Management unit of the WV DHHR with this information.
- 5) Department’s representative, the Repayment Investigator who conducted the investigation into Defendant’s SNAP case, stated that she received a repayment referral (Exhibit M-2) on Defendant due to her failure to report her correct household composition. She submitted into evidence a copy of a Final Order from the ██████ County, WV Family Court dated April 19, 2010, indicating that at a hearing held on March 29, 2010, primary custody of one of Defendant’s children was awarded to the child’s father. (Exhibit M-4.) She submitted a written statement from the child’s father dated July 20, 2011. (Exhibit M-5.) This statement says in part, “I have had custody of my daughter . . . since the date of the custody order . . .” Department’s representative submitted into evidence a school attendance verification form sent to ██████ County High School on July 20, 2011. (Exhibit M-7.) This form was completed and returned by the school secretary and listed the child’s parent or guardian as her father.
- 6) Department’s representative submitted into evidence a Food Stamp [SNAP] Claim Determination form, wherein she calculated Defendant was overpaid SNAP benefits from August 2010 to May 2011, and that the overpayment amount was \$1490. (Exhibit M-3.)
- 7) Defendant testified that she told one of her workers that her daughter had moved out of her home when she came into the office for a review. She testified that the workers with whom she performed eligibility reviews did not ask her if her children were living with her, they merely asked if there were any changes in her household, to which she replied, “No.” She added that she did not intentionally withhold information from the Department.
- 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 her household consisted of herself and her two children during SNAP program applications in August 2010 and February 2011, when her older daughter had moved to the home of her father. She signed application forms to the effect that there were three individuals in her household, and these forms clearly stated the penalties for not providing complete and accurate information.

## **IX. DECISION:**

Falsely reporting the number of people living in a person's household during a SNAP application or review 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 March 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 February, 2012.**

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**Stephen M. Baisden  
State Hearing Officer**