



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

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

January 5, 2012

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held December 16, 2011 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 provide that an 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 (WV Income Maintenance Manual § 20.2 C(2) and 7 CFR Section 273.16 (c)].

The information submitted at your hearing revealed that you made false statements at your June 2010 SNAP review, December 2010 SNAP review and July 2011 SNAP application by reporting child support as your sole income, when you had been employed with Global Contact Services since 2004.

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 February 2012.

Sincerely,

Kristi Logan  
State Hearing Officer  
Member, State Board of Review

cc: Chairman, Board of Review  
Rusty Udy, Repayment Investigator

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

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

**Defendant**

**v.**

**ACTION NO.: 11-BOR-2304**

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

**Movants**

**DECISION OF STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from a fair hearing concluded on December 16, 2011 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.

**II. PROGRAM PURPOSE:**

The program entitled Supplemental Nutrition Assistance Program (SNAP) is administered by the West Virginia Department of Health and Human Resources.

The purpose of 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:**

Rusty Udy, 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, 9.1 A, 10.3 EE  
Code of Federal Regulations – 7 CFR §273.16

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

**Department's Exhibits:**

- D-1 Hearing Summary
- D-2 SNAP Claim Calculation Sheet
- D-3 SNAP Claim Determination
- D-4 SNAP Issuance History Screen (IQFS) from RAPIDS Computer System
- D-5 SNAP Allotment Determination Screen (EFAD) from RAPIDS Computer System
- D-6 Case Members History Screen (AQCM) from RAPIDS Computer System
- D-7 Case Comments (CMCC) from RAPIDS Computer System
- D-8 Employment Verification from ██████████ Services
- D-9 Employee Wage Data Screen from Data Exchange
- D-10 Combined Application and Review Forms and Rights and Responsibilities Forms dated July 8, 2011, December 2, 2010, June 25, 2010 and December 30, 2009; Low Income Energy Assistance Program Applications dated November 3, 2010 and March 21, 2011
- D-11 Overpayment Notification Letter dated September 16, 2011
- D-12 Notification of Intent to Disqualify dated September 16, 2011
- D-13 WV Income Maintenance Manual § 1.2 E
- D-14 WV Income Maintenance Manual § 20.1 and 20.2
- D-15 Code of Federal Regulations – 7 CFR §273.16

**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, Rusty Udy on November 14, 2011. 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 mailed by this Hearing Officer on November 16, 2011. 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) Defendant completed a SNAP review on June 25, 2010. She reported to her caseworker that her household's only income was child support received for her son. SNAP benefits were recertified based on the information provided (D-7 and D-10).

Defendant completed another SNAP review on December 2, 2010. Defendant reported no changes to her household income of child support. SNAP benefits were recertified based on the information given by Defendant (D-7 and D-10).

Defendant reapplied for SNAP benefits on July 8, 2011. She reported that her Unemployment Compensation Income (UCI) had recently ended, but reported that she continued to receive child support. SNAP benefits were approved based on Defendant's statements (D-7 and D-10).

- 4) The Department discovered Defendant had been working for [REDACTED] Services since 2004. Defendant did not report this income at her June 2010 SNAP review, December 2010 SNAP review or her July 2011 SNAP application. The Department contends Defendant reported false information at her SNAP application and reviews regarding her household's income. The result of the misrepresentation was an overpayment of SNAP benefits of \$2255 (D-2, D-3 and D-4).

- 5) 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 application
- Closure of the active Assistance Group (AG)
- Removal of the individual from the AG
- Repayment of benefits
- Reduction in benefits

- 6) 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

7) WV Income Maintenance Manual § 10.3 DD states:

Employment: Counts as earned income for SNAP

8) 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 [SNAP] Act, the Food Stamp Program 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 reported her household's only income as child support at her June 2010 SNAP review, December 2010 SNAP review and July 2011 SNAP application when she had been receiving regular paychecks from her employment with [REDACTED] Services during those time periods. Defendant made false statements at her SNAP application and reviews resulting in an overpayment of SNAP benefits for which she was not eligible to receive.

### **IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to impose an Intentional Program Violation against Defendant for 12 months, effective February 2012.

### **X. RIGHT OF APPEAL:**

See Attachment

### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 5<sup>th</sup> day of January 2012.**

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