



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

December 20, 2012

----  
----  
----

RE: ---- v. WV DHHR  
ACTION NO.: 12-BOR-2344

Dear Ms. ----:

Enclosed is a copy of the decision resulting from the Administrative Disqualification Hearing held in the above-referenced matter.

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.

If you believe the decision was reached in error, you may appeal. See the attached explanation of Claimant's Recourse.

Sincerely,

Kristi Logan  
State Hearing Officer  
Member, State Board of Review

cc: Melissa Barr, Criminal Investigator  
Chairman, Board of Review

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

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

**Defendant,**

**v.**

**ACTION NO.: 12-BOR-2344**

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

**Movant.**

**DECISION OF STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is the decision of the State Hearing Officer resulting from an Administrative Disqualification Hearing held on December 14, 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:**

----, Defendant  
Melissa Barr, Criminal 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 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 Fraud Referral Form dated August 21, 2002
- D-2 Appointment Letter dated June 18, 2002, and Waiver of Administrative Disqualification Hearing dated July 24, 2012
- D-3 Code of Federal Regulations- 7 CFR § 273.16
- D-4 Combined Application and Review Form and Rights and Responsibilities Form dated May 26, 1998
- D-5 Combined Application and Review Form and Rights and Responsibilities Form dated November 24, 1998
- D-6 Combined Application and Review Form and Rights and Responsibilities Form dated May 11, 1999
- D-7 Combined Application and Review Form and Rights and Responsibilities Form dated August 13, 1999
- D-8 Combined Application and Review Form and Rights and Responsibilities Form dated December 16, 1999
- D-9 Combined Application and Review Form and Rights and Responsibilities Form dated March 17, 2000
- D-10 Combined Application and Review Form and Rights and Responsibilities Form dated August 24, 2000
- D-11 Combined Application and Review Form and Rights and Responsibilities Form dated November 16, 2000
- D-12 Combined Application and Review Form and Rights and Responsibilities Form dated March 13, 2001
- D-13 Combined Application and Review Form and Rights and Responsibilities Form dated May 17, 2001
- D-14 Combined Application and Review Form and Rights and Responsibilities Form dated August 13, 2001
- D-15 Combined Application and Review Form and Rights and Responsibilities Form dated January 29, 2002
- D-16 Statement from ---- dated October 16, 2002
- D-17 Statement from ---- ---- dated November 13, 2002
- D-18 Correspondence from ----Department of Housing and University Apartments dated November 11, 2002
- D-19 Case Comments from eRAPIDS Computer System
- D-20 Report of Overpayment Determination
- D-21 WV Income Maintenance Manual § 1.2 E
- D-22 WV Income Maintenance Manual § 2.2 B

**Defendant's Exhibits:**

Defendant-1 Correspondence from ---- ---- dated November 15, 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' Criminal Investigator, Melissa Barr, on October 12, 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 had been receiving SNAP benefits for herself and her two (2) children, ---- and ---- ----. On June 17, 2002, ---- ---- applied for SNAP benefits for herself and reported to the Department that she had not resided with her mother since April 1998 (D-19).
- 3) The Department obtained a statement (D-16) from Defendant's mother, ----, on October 16, 2002, which reads in pertinent part:

---- and ---- ---- are my grand-children. ---- currently lives with me & my husband, ----, and ---- goes to ---- & lives on campus.

In 5/98 ---- and ---- came to live with me at my current residence. ---- has lived with me ever since. ---- lived with from 5/98 until she started college which was in 8/01. She lived on campus at ----.
- 4) The Department received a statement (D-17) from ---- ----, ---- and ----'s father, on November 13, 2002, which reads in pertinent part:

My ex-wife is [Defendant]. We have two children, ---- and ----. ---- is 19 and ---- is 15. ---- is in college at ----. This is her second year. She lived on campus last year. This year she is off campus in an apartment.

In the month of 4/98 ---- and ---- moved in with their grandmother, ----, and grandfather, ----. ---- has lived there ever since that time. ---- lived there until she went to college last year.
- 5) The Department verified with ---- Department of Housing (D-18) that ---- resided in the dormitory from August 2001 through May 2002 and participated in the meal plan.
- 6) The Department contends that Defendant made numerous false statements regarding her household composition by reporting her children as residing in her home

when they had been residing with their grandparents. The Department presented Combined Application and Review Forms (D-4 through D-15) signed by Defendant from May 1998 through January 2002, in which Defendant reported ---- and ---- as residents of her household. The result of the misrepresentation was an overpayment of SNAP benefits (D-20) of \$8867.

- 7) Defendant testified that her children have always lived with her and still do to this date. Defendant stated she struggled with alcoholism in the past, which caused friction between her mother and ex-husband. Defendant stated her relationship with her mother has not been fully restored although she has been sober for eleven (11) years.

Defendant stated the statements from her mother and ex-husband were false. Defendant admitted that ---- moved out in August 2001 to attend college, but she was under the impression that ---- would be eligible for SNAP benefits automatically until she turned nineteen (19) years old.

Defendant stated ---- was heavily influenced by her father and grandmother and felt she was coerced into reporting to the Department that she had not been residing with Defendant when ---- applied for SNAP benefits. Defendant presented a statement from ---- (Defendant's Exhibit 1), which reads in pertinent part:

I, ---- ---- ----, daughter of [Defendant], lived with my mother through high school. The dates I attended ---- High School were August 1998 until May 2001 when I graduated. I lived with her up until I went to college at ---- in August 2001, and I graduated in 2006. I lived with her, except in times of illness when I would stay with my grandmother.

- 8) 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

- 9) 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.

- 10) 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

- 11) 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 contended that her daughter resided in her home until August 2001, at which time she moved out to attend college. Defendant testified that she thought her daughter was eligible for SNAP benefits until her 19<sup>th</sup> birthday. Defendant did not report her daughter leaving the household at her August 2001 and January 2002 SNAP reviews, thereby giving false information to the Department by reporting her daughter as residing in her household.
- 3) The Department verified that ---- ---- had not resided with her mother since April 1998, by statements from ----'s grandmother, with whom she lived during that time period. --- -----herself admitted to the Department in June 2002 that she had not been living with her mother. ---- recanted her statement regarding her residency by letter presented during the hearing. However, this letter did not give an explanation as to why she gave false information to the Department at her SNAP application in 2002 if she had lived with Defendant up until 2001, as was purported by Defendant.

**IX. DECISION:**

It is the decision of the State Hearing Officer that Defendant committed an Intentional Program Violation by giving false information to the Department regarding her household composition in order to receive SNAP benefits for which she was not entitled to receive. Defendant will be excluded from participation in SNAP for 12 months, effective February 2013.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 20<sup>th</sup> day of December 2012**

---

**Kristi Logan  
State Hearing Officer**