



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

February 2, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held January 10, 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 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 withheld information regarding your marriage to [REDACTED] in May 2011 during your June 2011 SNAP review.

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 March 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-2401

**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 January 10, 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.

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 and 9.1 A
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 Determination Form
- D-3 SNAP Claim Calculation Sheet
- 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 Verification of Marriage from IPACT Data Exchange System
- D-9 Employment Verification from ██████████ Ambulance Service
- D-10 SNAP Recertification Form dated June 9, 2011
- D-11 SNAP Phone Interview Form
- D-12 Notification Letter dated June 22, 2011
- D-13 Notification of Intent to Disqualify dated August 24, 2011
- D-14 WV Income Maintenance Manual § 1.2 E and 20
- 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 23, 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 sent by this Hearing Officer on December 2, 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 9, 2011. She reported her household consisted of herself and her four (4) children. Defendant reported her household's only income was child support. SNAP benefits were recertified based on the information provided (D-6 and D-10).
- 4) The Department discovered that Defendant married [REDACTED] on May 22, 2011. Neither -----nor his income through [REDACTED] Ambulance Service was reported during Defendant's SNAP review in June 2011 (D-8 and D-9).
- 5) The Department contends Defendant made a false statement at her SNAP review by reporting her household consisted only of herself and her children. Per policy, Defendant's husband and his earned income were required to be counted in Defendant's eligibility determination for SNAP. The result of the misrepresentation was an overpayment of SNAP benefits of \$1958 issued to Defendant of which she was not entitled to receive (D-2 and D-3).

- 6) 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

- 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 § 9.1 A(2) states:

The following individuals who live together must be in the same AG, even if they do not purchase and prepare meals together.

- Spouses are individuals who are married to each other under state law.

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 [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 was married in May 2011 and withheld this information from the Department during her June 2011 SNAP review. Defendant's spouse had income that was required by policy to count in determining SNAP eligibility. The result of Defendant's willful misrepresentation of her household composition resulted in an overpayment of SNAP benefits for which she was not eligible.

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 March 2012.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 2nd day of February 2012

**Kristi Logan
State Hearing Officer**