



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
4190 Washington Street, West  
Charleston, WV 25313

Earl Ray Tomblin  
Governor

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

February 7, 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 (ADH) held February 7, 2012, for the purpose of determining whether you committed an Intentional Program Violation (IPV).

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 SNAP is based on current policy and regulations. Some of these regulations state as follows: 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 [SNAP] Act, the SNAP Regulations, or any State statute relating 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 period of 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 totality of the information submitted at the hearing supports that you intentionally provided false information about your household's circumstances in order to receive SNAP for which you were not entitled.

It is the decision of the State Hearing Officer to **uphold** the Agency's proposal to apply a one (1) year SNAP disqualification penalty against you based on the determination that you committed an Intentional Program Violation. Your disqualification penalty period will begin March 1, 2012.

Sincerely,

Cheryl Henson  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review / Natasha Jemerison, Kanawha DHHR

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

IN RE: -----,

**Defendant,**

v.

**ACTION NO.: 11-BOR-2594**

**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 for ----- . This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This hearing was convened on February 7, 2012.

**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  
Natasha Jemerison, Department Representative  
-----, Department witness

Presiding at the Hearing was Cheryl Henson, State Hearing Officer and a member of the State Board of Review.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether the Defendant committed an intentional program violation and should be disqualified for one year from participation in SNAP.

**V. APPLICABLE POLICY:**

7 CFR § 273.16 USDA Code of Federal Regulations  
Common Chapters Manual Chapter 700, Appendix A  
West Virginia Income Maintenance Manual §1.2, 9.1.A.2.h and 20.2

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

**Department's Exhibits:**

- M-1 Benefit Recovery Referral screen from the Department's computer system dated August 26, 2011
- M-2 West Virginia Income Maintenance Manual §1.2, E
- M-3 Food Stamp Claim Determination Form and supporting documentation
- M-4 Code of Federal Regulations 7 CFR 273.16
- M-5 SNAP application form dated June 16, 2011
- M-6 Rights and Responsibilities form signed June 20, 2011
- M-7 Sworn written statement dated July 28, 2011, Income Verification dated August 10, 2011
- M-8 West Virginia Income Maintenance Manual §2.2
- M-9 West Virginia Income Maintenance Manual §20.6
- M-10 Notification letters sent to Defendant dated October 6, 2011
- M-11 Computer screen print from Department's child support system dated January 18, 2011
- M-12 ██████████ County Property Tax Records for tax year 2009 and 2010
- M-13 Computer screen print from Department's cross-match with Unemployment Compensation records

**Claimant's Exhibits:**

- D-1 Handwritten note purportedly from -----and dated February 6, 2012

**VII. FINDINGS OF FACT:**

- 1) A request for an Administrative Disqualification Hearing, hereinafter ADH, was received by the Board of Review from the Department of Health and Human Resources, hereinafter Department, on December 16, 2011. The Department contends that the Defendant has

committed an Intentional Program Violation, hereinafter IPV, and made a fraudulent statement or misrepresentation regarding her household composition in order to receive SNAP, and is recommending that she be disqualified from participation in SNAP for a period of one (1) year.

- 2) The Department contends that the Defendant intentionally reported incorrect household composition for her SNAP household by withholding that -----lived in her home when she applied for SNAP benefits during June 2011.
- 3) The Department presented evidence which supports that the Defendant completed a SNAP application form (M-5) on or about June 16, 2011, at which time she reported that her husband, [REDACTED] was not living in her household. According to case comments (M-3) she reported at that time that he gave her money on a monthly basis. She signed the Rights and Responsibilities form (M-6) indicating she understood her responsibility to report accurate and truthful information and the penalties for failure to do so.
- 4) Additional evidence (M-7) supports that the Department obtained a sworn written statement from ----- grandmother on July 28, 2011, in which the grandmother stated that ----- does not live with her. She also is documented as reporting that -----lives with the Defendant at her listed address, and that he had lived with her there for at least seven (7) years.
- 5) Additional evidence (M-11) dated January 18, 2011, shows that the Department's computer system reflected that -----lived at the same address as the Defendant. Additional evidence (M-12) shows that -----paid his personal property taxes to the [REDACTED] County Property Tax Department for the years 2009 and 2010 utilizing the same physical address as the Defendant. Additional evidence (M-13) shows that the Department's computer cross-match system with Unemployment Compensation showed that -----utilized the Defendant's physical address as his own on February 10, 2010.
- 6) The Department's witness, -----, is an investigator employed by the Department. She testified that she investigated the circumstances of the Defendant's household composition after receiving a complaint. She stated that she interviewed the Defendant's grandmother, -----, on July 28, 2011, at which time the grandmother informed her that -----has lived with the Defendant at her reported address for a least seven (7) years. ----- stated that she contacted the Defendant on August 9, 2011, and asked her where -----lived. She stated that the Grievant told her that he lives with his grandmother – the grandmother who provided the information about him living with the Defendant.
- 7) The Department contends that the period of time in question is from the date of SNAP application June 16, 2011, through September 2011.
- 8) The Defendant testified that she married -----during October 2008 and that they lived together for approximately one (1) month and have been separated ever since, except for a few times when he would stay for a few days and then leave. She stated that she did not know that -----was not living with his grandmother and that she told the Department that he did because he had stayed with her previously on occasion.

9) The Defendant presented a handwritten note purportedly completed by -----and dated February 6, 2012. In the note, he says that he did not live in the household with the Defendant during, “the food stamp application or while she received them.” He added that he pays her one hundred forty dollars (\$140.00) monthly and that he goes to the house to visit and watch the kids as needed.

10) West Virginia Income Maintenance Manual §1.2 (E) states that it is the client's responsibility to provide information about his circumstances so the worker is able to make a correct decision about his eligibility.

11) West Virginia Income Maintenance Manual § 20.2 (C) (2) states in pertinent part:

IPV's include making false or misleading statement, misrepresentations, concealing or withholding information, and committing any act that violates the [SNAP] Act of 1977, [SNAP] regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of [SNAP].

The individual(s) who is found to have committed an IPV is ineligible to participate in the program for a specified time, depending on the number of offenses committed.

Once an IPV is established, a disqualification penalty is imposed on the AG member(s) who committed the IPV.

12) Common Chapters Manual 700, Appendix A, Section B, provides that an IPV 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 [SNAP] Act, the SNAP Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt or possession of SNAP benefits.

13) Common Chapters Manual 700, Appendix A, Section G, states that the State Hearing Officer shall base the determination of IPV on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, an IPV as defined in Section B of this Appendix.

14) West Virginia Income Maintenance Manual §9.1.A.2.h states:

#### Intentional Program Violation (IPV)

Persons who have been found guilty of an IPV are disqualified as follows:

- 1<sup>st</sup> Offense: 1 year
- 2<sup>nd</sup> Offense: 2 years
- 3<sup>rd</sup> Offense: Permanent

### **VIII. CONCLUSIONS OF LAW:**

- 1) The policy and regulations that govern SNAP state that a SNAP Violation has occurred when an individual intentionally makes a false or misleading statement, or misrepresented, concealed or withheld facts relating to the use, presentation, transfer, acquisition, receipt or possession of SNAP benefits.
- 2) The regulations state there must be clear and convincing evidence that demonstrates the Defendant intentionally committed an IPV.
- 3) The Defendant clearly was aware of her responsibility to report truthful and accurate information and the penalties involved for failing to do so. She read and signed the application as well as the Rights and Responsibilities form during the period in question which clearly informed her of these responsibilities.
- 4) The totality of the evidence supports that -----was living with the Defendant at her address when she applied for SNAP benefits on June 16, 2011, and that the Defendant withheld this information from the Department. The grandmother's written statement is compelling, and she stated that -----has lived with the Defendant for at least seven (7) years. The Department's written evidence from its computer system, Unemployment Compensation cross-match system, ██████████ County tax records, as well as from ----- employer, all support that the Defendant was married to and living with the Defendant at various times ranging from the year 2009 through January 2011. Although this period is not specifically within the timeframe the Department listed as relevant, that being June 16, 2011 through September 2011, it speaks to ----- living arrangements during a time when his grandmother stated that he lived with the Defendant and the Defendant stated that he did not live with her. The letter from -----does not speak to where he was living during the period in question and simply states that he did not live with the Defendant while she was receiving SNAP benefits. The Defendant presented no other evidence in support of her position.
- 5) The Department was correct in its determination that the Defendant has committed an Intentional Program Violation by intentionally withholding information about her household composition.

### **IX. DECISION:**

The Agency's proposal to apply a one (1) year Food Stamp disqualification penalty is **upheld**. The Defendant's disqualification penalty period will begin March 1, 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 February, 2012.**

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**Cheryl Henson  
State Hearing Officer**