



**State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
1027 N. Randolph Ave.  
Elkins, WV 26241**

**Earl Ray Tomblin  
Governor**

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

March 16, 2012

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

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 March 15, 2012 to determine 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.

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, 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 time determined by the number of previous Intentional Program Violation disqualifications. (West Virginia Income Maintenance Manual Section 20.2 and Code of Federal Regulations-7 CFR Section 273.16)

Documentation and testimony submitted at the hearing reveals that you failed to report earnings to the Department, which resulted in a \$1,550 SNAP over issuance for the period of February-July 2011.

It is the decision of the State Hearing Officer that you committed an Intentional Program Violation and a 12-month disqualification penalty will be applied.

Sincerely,

Pamela L. Hinzman  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Tammy Hollandsworth, Repayment Investigator, WVDHHR

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

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

**Defendants,**

**v.**

**ACTION NO.: 12-BOR-438 and 12-BOR-853**

**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 conducted telephonically on March 15, 2012 in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources (WVDHHR).

All persons giving testimony were placed under oath.

**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 an EBT card to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

**III. PARTICIPANTS:**

-----, Defendant  
-----, Co-Defendant  
Tammy Hollandsworth, WVDHHR Repayment Investigator

Presiding at the hearing was Pamela L. Hinzman, 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 from participation in the Supplemental Nutrition Assistance Program (SNAP) for a period of 12 months.

**V. APPLICABLE POLICY:**

7 CFR Sections 273.11 and 273.16, USDA Code of Federal Regulations  
WVDHHR Common Chapters Manual Section 740.11.D  
West Virginia Income Maintenance Manual Sections 1.2.E, 20.2 and 20.2.C.2

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

**Department's Exhibits:**

- D-1 Hearing Summary
- D-2 Food Stamp Claim Determination forms for period of February 2011- July 2011
- D-3 Food Stamp Calculation Sheets for period of February 2011- July 2011
- D-4 SNAP Issuance History-Disbursement
- D-5 Food Stamp Allotment Determinations
- D-6 Case Member History
- D-7 Case Comments for February 9, 2011
- D-8 Payroll Summary from -----Enterprises, LLP, for -----
- D-9 Combined Application and Review Form dated February 9, 2011
- D-10 Rights and Responsibilities signed on February 9, 2011
- D-11 Notifications of Intent to Disqualify dated December 10, 2011 sent to Defendant and Co-Defendant
- D-12 Waivers of Administrative Disqualification Hearing sent to Defendant and Co-Defendant
- D-13 West Virginia Income Maintenance Manual Section 1.2.E
- D-14 West Virginia Income Maintenance Manual Section 20.1
- D-15 West Virginia Income Maintenance Manual Sections 20.2 and 20.6
- D-16 Code of Federal Regulations Section 273.16

## VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from WVDHHR Repayment Investigator Tammy Hollandsworth on January 23, 2012. The Repayment Investigator contends that the Defendant, -----, and Co-Defendant, -----, committed an Intentional Program Violation, and recommends that they both be disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, for a period of 12 months.
- 2) Investigator Hollandsworth testified that the Department's Investigations and Fraud Management Unit received a referral indicating that the Defendant and Co-Defendant completed a SNAP application on February 9, 2011 (D-9), indicating that they had zero income (see Case Comments, Exhibit D-7). The Department later learned that ----- had been working for -----Enterprises, LLP, at the time of the SNAP application. The Department received a Payroll Summary (D-8) from -----Enterprises, verifying the Defendant's wages for the period of January-September 2011. As a result of the unreported income, Investigator Hollandsworth indicated that the Defendant and Co-Defendant received \$1,550 in SNAP benefits to which they were not entitled. This calculation is demonstrated in Exhibits D-2 through D-5.

Investigator Hollandsworth contended that the Defendant was employed at the time of the February 9, 2011 SNAP application, but failed to report his income. Both the Defendant and Co-Defendant's signatures are located on the Combined Application and Review Form (D-9) and the associated Rights and Responsibilities (D-10), attesting that they had provided truthful and complete information to the Department.

- 3) The Defendant admitted he had been working for -----Enterprises and stated that he was "supposed" to have held 10 percent ownership in the company. He testified that he was only supposed to have been working part-time at the time of the February 2011 SNAP application. The Defendant indicated that he was crushed by a tree at work on March 21, 2011 and did not return to work until May 2011. The Defendant stated that the income listed on the Payroll Summary for that time period was money that he had received to help meet expenses while he was injured. The Defendant admitted that he was at fault for not reporting the income.
- 4) West Virginia Income Maintenance Manual Section 1.2.E (D-13) states that it is the client's responsibility to provide information about his/her circumstances so the worker is able to make a correct decision about his or her eligibility.
- 5) West Virginia Income Maintenance Manual Section 10.3.DD states that employment compensation is a countable income source for SNAP purposes.

6) West Virginia Income Maintenance Manual Section 20.2 (D-15):

When an AG (Assistance Group) has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation or Intentional Program Violation claim. The claim is the difference between the allotment the client received and the allotment he should have received.

7) West Virginia Income Maintenance Manual Section 20.2.C.2 (D-15):

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

Once an IPV (Intentional Program Violation) is established a disqualification penalty is imposed on the AG (Assistance Group) members who committed the IPV...

The penalties are as follows: (Section 9.1A, 2, h) 1st Offense: 1 year (Disqualification).

8) WVDHHR Common Chapters Manual Section 740.11.D provides that 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 Act, the Food Stamp Program Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt or possession of Food Stamp benefits.

### VIII. CONCLUSIONS OF LAW:

- 1) Policy states that when an Assistance Group has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation or Intentional Program Violation claim. If it is determined that an Intentional Program Violation has been committed, an appropriate disqualification penalty is imposed.
- 2) The Department presented evidence to demonstrate that the Defendant and Co-Defendant intentionally withheld information regarding the Defendant's earnings during their February 9, 2011 SNAP application, resulting in an over issuance of SNAP benefits.

- 3) Based on information provided during the hearing, the Department has correctly proposed the imposition of a 12-month SNAP disqualification penalty for both the Defendant and Co-Defendant based on the commission of an Intentional Program Violation.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the Department's proposal to impose an Intentional Program Violation penalty and disqualify the Defendant and Co-Defendant from the SNAP for a period of 12 months. The disqualification period will begin in May 2012.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 15th Day of March, 2012.**

---

**Pamela L. Hinzman  
State Hearing Officer**