



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 14, 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 8, 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 misrepresented your living situation - and received \$6,606 in SNAP benefits to which you were not entitled - for the period of October 2009 through March 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: -----,

Defendant,

v.

ACTION NO.: 12-BOR-467

**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 on March 8, 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

Tammy Hollandsworth, WVDHHR Repayment Investigator

Jan Kinser, WVDHHR Referral Management Process Investigator (participated telephonically)

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 permanently disqualified from participation in the Supplemental Nutrition Assistance Program.

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, 9.1.A, 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 October 2009 to March 2011

D-3 Food Stamp Calculation Sheets for period of October 2009 to March 2011

D-4 SNAP Issuance History-Disbursement

D-5 Food Stamp Allotment Determinations

D-6 Case Member History information

D-7 Case Comments for period of October 1, 2009 to March 31, 2011

D-8 IPACT verification of paternity for -----

D-9 Employment/earnings verification for -----

D-10 West Virginia Sex Offender Registry information for -----

D-11 Driver History Inquiry for Defendant and -----

D-12 IFM-1 Lead Sheet notes

D-13 Electronic Benefits Transfer (EBT) Transaction History for period of January 2, 2011 to July 13, 2011

D-14 Combined Application and Review Forms with Rights/Responsibilities signed by Defendant on August 28, 2009, March 11, 2010, September 14, 2010 and March 31, 2011

D-15 Notification of Intent to Disqualify dated December 20, 2011

- D-16 Waiver of Administrative Disqualification Hearing sent to Defendant on December 20, 2011
- D-17 West Virginia Income Maintenance Manual Section 1.2.E
- D-18 West Virginia Income Maintenance Manual Sections 20.1 and 20.2
- D-19 West Virginia Income Maintenance Manual Section 20.6
- D-20 Code of Federal Regulations Sections 273.11b(3) and 4(B)
- D-21 Phone number/address information for ----- from internet site addresses.com (printed on March 8, 2012) and phone number/address provided to Department from Defendant

Defendant’s Exhibits:

- DEF-1 Written statement of -----
- DEF-2 Written statement of -----
- DEF-3 Written statement of -----

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 25, 2012. The Repayment Investigator contends that the Defendant committed an Intentional Program Violation and recommends that she be disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, for a period of 12 months.
- 2) WVDHHR Repayment Investigator Tammy Hollandsworth testified that the Department’s Investigation and Fraud Management Unit received a referral alleging that the Defendant had been residing with her child’s father since the time of the child’s birth. Ms. Hollandsworth contended that the Defendant did not report that paternity had been established for her daughter, -----, or that her boyfriend, -----, was the child’s father.

The referral was assigned to Jan Kinser, WVDHHR Referral Management Process Investigator, who found sufficient evidence regarding the Defendant’s living arrangement to determine that -----should be added to the Defendant’s SNAP case. The addition of -----and his earnings resulted in case closure due to excessive income. According to testimony from -----and comments on the Department’s IFM-1 Lead Sheet (D-12), the Defendant contacted -----to inquire about her case and reportedly admitted that she was living with -----because “she had nowhere else to go.”

Investigator Hollandsworth testified that the Defendant’s failure to accurately report her living situation resulted in a \$6,606 overpayment in SNAP benefits for the period of October 2009 through March 2011. This amount is shown and calculated in Food Stamp Claim Determination forms (D-2), Food Stamp Calculation Sheets (D-3), SNAP Issuance History (D-4) and Food Stamp Allotment Determination information (D-5).

Investigator Hollandsworth contended that the Defendant completed Combined Application and Review Forms with associated Rights and Responsibilities (D-14) on several occasions and failed to provide accurate information concerning her living situation. Investigator Hollandsworth stated that the Defendant completed a SNAP redetermination on August 28, 2009 and reported that she and her daughter were splitting time living with a friend, her boyfriend's mother and her boyfriend. She reported that paternity had not been established at that time. IPACT information (D-8) reveals that paternity was established on September 3, 2009 and that the Defendant was residing with the child's father. At the time of the redetermination, the Defendant reported no income, assets or shelter/utility costs. The Defendant completed subsequent SNAP redeterminations on March 11, 2010, September 14, 2010 and March 3, 2011, reporting no change in her circumstances. The Defendant signed all of the SNAP Redetermination/Rights and Responsibilities forms, attesting that she had provided complete and truthful information to the Department.

Investigator Hollandsworth testified that the Defendant's SNAP case closed effective March 31, 2011 after the Department determined that -----was residing in the home. She indicated that the Defendant reapplied for SNAP benefits in ██████ County in June 2011. Case Comments of June 22, 2011 state that when a Department worker attempted to contact --- -----to verify child support payments, the Defendant answered the telephone. The comments state that the Defendant had first indicated she was residing with -----, but that she retracted her statement when she determined she was speaking with an Economic Service Worker. On September 15, 2011, the Defendant reported that she moved back into her boyfriend's residence, so her SNAP benefits closed effective September 30, 2011. Electronic Benefits Transfer (EBT) information (D-13) indicates that the Defendant's EBT card was used for SNAP purchases in ██████ County from June 29, 2011 through July 13, 2011, even though the Defendant reported she was residing in ██████ County in June 2011.

Investigator Hollandsworth stated that -----'s earnings/employment data (D-9) - as well as Driver History Inquiry information for the couple (D-11) - reveal that he and the Defendant had the same address. The West Virginia State Police Sex Offender Registry (D-10) indicates that -----'s address had not changed, and Exhibit D-21 reveals that the Defendant and --- -----shared the same telephone number.

The Defendant was sent a Notice of Intent to Disqualify (D-15) and a Waiver of Administrative Disqualification Hearing (D-16) on December 20, 2011. Investigator Hollandsworth indicated that the Defendant telephoned her and agreed to provide evidence concerning her residence, but failed to provide any information.

- 3) The Defendant testified that she was raised in State custody, and kept her boyfriend's address because she does not have a good relationship with her mother. She provided a written statement from ----- (DEF-1) that indicates she stayed with ----- "off and on" from August 2009 through May 2011. -----, the Defendant's mother, also provided a written statement (DEF-2), indicating that the Defendant stayed with her "about two wks [sic] out of a month every other month or every 2 months due to her relationship issues with her boyfriend." -----provided a written statement (DEF-3) which states that the Defendant stayed with him part of the time and with her family part of the time due to their relationship problems.

- 4) West Virginia Income Maintenance Manual Section 1.2.E (D-17) 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 9.1.A states that natural or adopted children and stepchildren who are under 22 years of age and who live with a parent must be in the same SNAP Assistance Group as that parent.
- 6) West Virginia Income Maintenance Manual Section 20.2 (D-18):

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-18):

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 Grievant was residing with her boyfriend for the period of October 2009 through March 2011. While the Grievant may have had relationship problems at times, she and her child's father shared the same address and telephone number, and she admitted to an IFM Investigator that she was residing with her boyfriend.
- 3) Based on information provided during the hearing, the Department has correctly proposed the imposition of a 12-month SNAP disqualification penalty 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 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 14th Day of March, 2012.

**Pamela L. Hinzman
State Hearing Officer**