



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

Karen L. Bowling  
Cabinet Secretary

April 28, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 15-BOR-1364

Dear Ms. [REDACTED]

Enclosed is a copy of the decision resulting from the 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.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Kristi Logan  
State Hearing Officer  
Member, State Board of Review

Encl: Claimant's Recourse to Hearing Decision  
Form IG-BR-29

cc: Danita Bragg, Criminal Investigator

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

██████████,

**Defendant,**

v.

**Action Number: 15-BOR-1364**

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

**Movant.**

**DECISION OF STATE HEARING OFFICER**

**INTRODUCTION**

This is the decision of the State Hearing Officer resulting from an Administrative Disqualification Hearing for ██████████ requested by the Movant on February 24, 2015. 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 and Federal Regulations at 7 CFR § 273.16. The hearing was convened on April 14, 2015.

The matter before the Hearing Officer arises from a request by the Department for a determination as to whether the Defendant has committed an Intentional Program Violation and should thus be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Department appeared by Danita Bragg, Criminal Investigator. Appearing as a witness for the Department was ██████████. All witnesses were sworn and the following documents were admitted into evidence.

**Movant's Exhibits:**

- M-1 SNAP Claim Determination
- M-2 SNAP Allotment Determination Screens from RAPIDS Computer System
- M-3 SNAP Issuance History Screens from RAPIDS Computer System
- M-4 SNAP Claim Calculation Sheets
- M-5 Combined Application and Review Form dated October 7, 2011
- M-6 SNAP Review Form (CSLE) dated April 5, 2012
- M-7 SNAP Application dated November 9, 2012
- M-8 Combined Application and Review Form dated May 3, 2013
- M-9 Statement from ██████████ dated December 16, 2013
- M-10 Statement from ██████████. dated September 16, 2014

- M-11 WV Income Maintenance Manual §1.2 E
- M-12 WV Income Maintenance Manual §20.2
- M-13 WV Income Maintenance Manual §20.6
- M-14 Code of Federal Regulations – 7 CFR §273.16

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

### **FINDINGS OF FACT**

- 1) The Department alleged that the Defendant committed an Intentional Program Violation (IPV) by falsely reporting her household composition and requested that a SNAP penalty of 12 months be imposed against her.
- 2) The Defendant was notified of the hearing by scheduling order mailed on March 3, 2015. The Defendant failed to appear or provide good cause for her failure to do so. In accordance to 7 CFR §273.16(e) (4)), and West Virginia Department of Health and Human Resources' Common Chapters Manual, §740.20, the hearing was held without the Defendant in attendance.
- 3) The Defendant completed SNAP application and review forms on October 7, 2011, May 3, 2012, November 9, 2012 and May 3, 2013 (M-5, M-6, M-7 and M-8). On each form, the Defendant listed that her household consisted of herself and her daughter, [REDACTED]. The Defendant reported no income for the household.
- 4) The Department received a statement (M-10) from [REDACTED] on September 16, 2014, attesting that he resided with the Defendant prior to the birth of their daughter [REDACTED] through 2014. [REDACTED] had earnings and unearned income during the time he resided with the Defendant.
- 5) The Department obtained a statement (M-9) from [REDACTED], father of [REDACTED], [REDACTED]. corroborating the allegation that Mr. [REDACTED] and the Defendant resided together from 2011 through 2014. Mr. [REDACTED] owned the residence where his son and the Defendant resided together with their daughter.
- 6) The Department contended that the Defendant made false statements on her SNAP applications and review forms regarding her household composition and income. The result of the misrepresentation by the Defendant was an overpayment (M-1 and M-4) of SNAP benefits in the amount of \$8,873 issued from November 2011 through November 2013.

## **APPLICABLE POLICY**

WV Income Maintenance Manual §§9.1A and 9.1 B states that the SNAP Assistance Group (AG) must include all eligible individuals who both live together and purchase and prepare their meals together. Children under the age twenty-two (22) who live with a parent must be included in the same AG as that parent. The income group includes all AG members and all individuals who live with the AG.

Pursuant to the Code of Federal Regulations 7 CFR §273.16, 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 for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system access device.

West Virginia Income Maintenance Manual §1.2 E reads that it is the client's responsibility to provide accurate information regarding his circumstances so that a correct decision about eligibility can be made. Failure to fulfill this obligation may result in the denial of an application, closure of an active Assistance Group (AG), removal of an individual from the AG, and/or a repayment/reduction in benefits.

West Virginia Income Maintenance Manual §20.2 C(2) requires that once an IPV has been established, a disqualification period must be imposed on the AG member who committed the violation.

West Virginia Income Maintenance Manual §9.1 sets forth the penalties for individuals found guilty of an IPV as follows: First Offense, twelve (12) month disqualification; Second Offense, twenty-four (24) month disqualification; Third Offense, permanent disqualification.

## **DISCUSSION**

The Department provided clear and convincing evidence that [REDACTED], the father of the Defendant's daughter, resided in her household from 2011 through 2014. Per policy, Mr. [REDACTED] was required to be in the same SNAP AG as the Defendant and their daughter and his income should have been used in determining their eligibility for SNAP benefits.

## **CONCLUSION OF LAW**

Through the willful misrepresentation by the Defendant regarding her household composition, she received an overpayment of SNAP benefits she otherwise would not have been entitled to receive. The Defendant's actions meet the definition of an Intentional Program Violation and the applicable 12-month penalty will be applied to the Defendant.

**DECISION**

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation and will be excluded from participation in SNAP for 12 months, effective June 2015.

**ENTERED this 28<sup>th</sup> day of April 2015**

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**Kristi Logan  
State Hearing Officer**