



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
9083 Middletown Mall  
White Hall, WV 26554

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

April 28, 2014

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 15-BOR-1370

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,

Thomas E. Arnett  
State Hearing Officer  
Member, State Board of Review

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

cc: Rebecca Pancake, Repayment Investigator, WVDHHR

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

██████████,

**Defendant,**

v.

**Action Number: 15-BOR-1370**

**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 21, 2014.

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 Rebecca Pancake, Repayment Investigator. Appearing as a witness for the Movant was Vernon Eikenberry, Family Support Specialist, WVDHHR. The Defendant appeared pro se. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- M-1 Benefit Recovery Referral dated May 8, 2014
- M-2 Combined Application and Review Form, and Rights and Responsibilities, signed by the Defendant on March 24, 2014
- M-3 Inre: *State of West Virginia, Ex-Rel, West Virginia Department of Health and Human Resources, Bureau for Child Support Enforcement v. ██████████ and ██████████*, Family Court of ██████████, Civil Action: 11-D-11 (WS), Final Order, entered on April 24, 2014
- M-4 Inre: *State of West Virginia, Ex-Rel, West Virginia Department of Health and Human Resources, Bureau for Child Support Enforcement v. ██████████ and ██████████*

- ██████████, Family Court of ██████████, Civil Action: 11-D-11 (WS), Final Order, entered on December 4, 2014
- M-5 Case Comments for Case #6010307163 for the period of March 10, 2014 through January 5, 2015
  - M-6 Bureau for Child Support Enforcement (BCSE) case narrative dated May 1, 2014
  - M-7 Notice that witness Vernon Eikenberry will participate in hearing
  - M-8 State Wage Match – Employee wage data for ██████████, 2<sup>nd</sup> quarter 2014 (employment income used in calculation of benefits)
  - M-9 Food Stamp (SNAP) Claim Determination Form with supporting calculations, SNAP issuance history/disbursement for April and May 2014
  - M-10 Advanced Notice of Administrative Disqualification Hearing Waiver, Waiver of Administrative Disqualification Hearing, and returned Waiver signed by Defendant on February 10, 2015
  - M-11 WV Income Maintenance Manual §§1.2.E, 20.2, 20.6.A and 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) A request for an Administrative Disqualification Hearing was received by the Board of Review from the West Virginia Department of Health and Human Resources, hereinafter Movant, on February 24, 2015. Movant contends that the Defendant has committed an Intentional Program Violation (IPV) and is recommending that the Defendant be disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP) for a period of 12 months.
- 2) Movant’s representative, Rebecca Pancake, proffered testimony to indicate she received a Benefit Recovery Referral (M-1) on May 8, 2014, indicating the Defendant did not report that ██████████, the father of the Defendant’s son, was residing in her home.
- 3) Defendant completed a WV WORKS/Supplemental Nutrition Assistance Program (SNAP) application on March 24, 2014, and declared that her Assistance Group (AG) consisted of two (2) individuals – the Defendant and her son. Cash assistance and SNAP benefits were approved effective April 4, 2014. On April 18, 2014, the Defendant contacted her caseworker to report employment, but remained eligible to participate in the WV WORKS/SNAP benefit programs (M-5).

- 4) On May 1, 2014, Movant was notified by the Bureau for Child Support Enforcement (BCSE), Exhibit M-6, that the father of the Defendant's son, [REDACTED], the Defendant and their minor child were residing together. According to Exhibit M-3, [REDACTED] petitioned the [REDACTED], Family Court on February 5, 2014, requesting that his child support obligation be terminated because he and the Defendant were "back together" and that "[REDACTED] no longer seeks child support." According to Finding of Fact #6 of this Order, the Defendant and [REDACTED] currently reside together in the same home with their minor child, and Finding of Fact #7 indicates that [REDACTED] (Defendant) does not object to the relief requested. The Petition for Modification was granted in Conclusions of Law #3, and [REDACTED] child support obligation was terminated effective February 10, 2014 by the Family Court's Final Order entered on April 24, 2014. As a matter of record, Movant acknowledged that [REDACTED] was again ordered to begin paying child support effective August 29, 2014 (M-4) following the Defendant's petition for modification filed on August 25, 2014. According to Conclusion of Law #2 – "There has been a substantial, unanticipated change of circumstance sufficient to justify modification of this Court's prior Order (i.e. the parties no longer reside together)."
- 5) Testimony proffered by Vernon Eikenberry was consistent with information included in Exhibit M-5, which reveals that the Defendant contacted her caseworker on three (3) occasions in April 2014 (after completing her March 24, 2014 application) and failed to report that she and her child's father were residing together.
- 6) Movant's Exhibit M-9 (Food Stamp/SNAP Claim Determination) indicates that by providing untruthful information about her household composition and failing to include [REDACTED] income on the March 24, 2014 application, the Defendant received \$545 in SNAP benefits to which she was not legally entitled in April and May 2014.
- 7) The Defendant contended during the hearing that she and her child's father "got back together" but they did not reside together in the same home.
- 8) The Defendant signed her March 24, 2014 application form (M-2) certifying that the information she provided was true and correct, and she signed the Rights and Responsibilities form acknowledging the following:

I understand if I am found (by court action or an administrative disqualification hearing) to have committed an act of intentional program violation, I will not receive Food Stamp benefits as follows: First Offense – one year; Second Offense – two years; Third Offense – permanently. In addition, I will have to repay any benefits received for which I was not eligible.

By signing the Rights and Responsibilities form, the Defendant certified that she read, understood, and accepted the rights and responsibilities, and that all of the information provided was true and correct.

## **APPLICABLE POLICY**

Policy found in §1.2(E) of the West Virginia Income Maintenance Manual provides 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.

West Virginia Common Chapters Manual §740.11.D and the Code of Federal Regulations 7 CFR Section 273.16 establish that an individual making a false or misleading statement, or misrepresenting, concealing or withholding facts has committed an Intentional Program Violation (IPV).

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(s) 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 evidence clearly demonstrates that the Defendant was untruthful when she reported on her March 24, 2014 application that her AG consisted of only herself and her son. While the Claimant contended that she and her child's father "got back together," but were not residing in the same home, the [REDACTED], Family Court Orders (M-3 and M-4) clearly indicate otherwise. The evidence is clear and convincing that the Defendant's act was intentional – she knowingly provided false and misleading information about her household composition to receive SNAP benefits to which she was not legally entitled.

## **CONCLUSIONS OF LAW**

- 1) The regulations that govern the SNAP state that a program violation has occurred when an individual intentionally makes a false or misleading statement, or misrepresents, conceals or withholds facts relating to the use, presentation, transfer, acquisition, receipt or possession of SNAP benefits.
- 2) The evidence confirms the Defendant knowingly provided false and misleading information about her household composition in order to receive SNAP benefits to which she was not legally entitled. This clearly establishes intent.
- 3) There is clear and convincing evidence that the Defendant committed an Intentional Program Violation as defined in the SNAP policy and regulations.

- 4) Pursuant to SNAP policy and regulations, an Intentional Program Violation has been committed and a disqualification penalty must be applied. The disqualification for a first offense is 12 months.

**DECISION**

The Department's proposal to apply a 12-month SNAP benefit disqualification is **upheld**. The Defendant will be disqualified from participation in the SNAP for 12 months beginning June 1, 2015.

**ENTERED this \_\_\_\_ day of April 2015.**

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**Thomas E. Arnett**  
**State Hearing Officer**