



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
203 East Third Avenue  
Williamson, WV 25661

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

June 30, 2015



RE: [REDACTED] v. WV DHHR  
ACTION NO.: 15-BOR-1893

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,

Stephen M. Baisden  
State Hearing Officer  
Member, State Board of Review

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

cc: Cassandra Burns, Repayment Investigator

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

██████████,

**Defendant,**

v.

**Action Number: 15-BOR-1893**

**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 April 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 Section 273.16. The hearing was convened on June 2, 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 thus should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for twelve months.

At the hearing, the Department appeared by Cassandra Burns, Repayment Investigator. The Defendant did not appear. The participant was sworn and the following documents were admitted into evidence.

**Movant's Exhibits:**

- M-1 Code of Federal Regulations §273.16
- M-2 Form ES-FS-5, Food Stamp (SNAP) Claim Determination
- M-3 Print-outs from Defendant's SNAP record, indicating Defendant's home mailing address as of April 2014 and September 2014
- M-4 Landlord's information form dated November 16, 2014, and rent receipts for July and August 2014
- M-5 Criminal Complaint from the Magistrate Court of ██████████, dated June 10, 2014
- M-6 WV DHHR Emergency Assistance Application, dated April 15, 2014
- M-7 SNAP Review Form, signed by Defendant on September 8, 2014

- M-8 Case recordings from Defendant's SNAP record, from April 15, through December 11, 2014
- M-9 West Virginia Income Maintenance Manual (WV IMM) Chapter 1, §1.2.E
- M-10 WV IMM Chapter 20, §20.2
- M-11 WV IMM Chapter 20, §20.6
- M-12 Copy of IG-IFM-ADH-waiver, Waiver of Administrative Disqualification Hearing form, and IG-IFM-ADH-Ltr, Notice of Intent to Disqualify form, sent to Defendant on April 7, 2015

**Defendant's Exhibits**

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence, 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's representative contends the Defendant committed an Intentional Program Violation and should be disqualified from SNAP for one year because she intentionally withheld the fact that her husband, a recipient of Supplemental Security Income (SSI), resided with her from May through December 2014. The Department's representative argued that because the Defendant did not report her husband or his income in her home, her SNAP assistance group (AG) received \$2750 in benefits to which it was not entitled (Exhibit M-2).
- 2) From March through November 2014, the Defendant listed her mailing address with the WV DHHR as [REDACTED].
- 3) The Defendant's landlord for that period of time completed a landlord's information form (Exhibit M-4) indicating he rented "[REDACTED]" a home at [REDACTED], from July 2013 to November 2014.
- 4) In June 2014, a WV State Police Officer entered a criminal complaint in the [REDACTED], [REDACTED] Magistrate Court (Exhibit M-5). The complaint alleges that Mr. [REDACTED], of [REDACTED], admitted to growing marijuana plants behind his residence.
- 5) In April 2014, the Defendant submitted an application form for the Emergency Assistance program (Exhibit M-6). On it, the Defendant entered that her SNAP AG and household consisted of herself and her two children. Case recordings entered in the Defendant's case record indicate that on April 15, 2014, the Defendant reported that her husband [REDACTED] no longer lived in her home.
- 6) On September 8, 2014, the Defendant completed a SNAP review/redetermination form (Exhibit M-7), reporting that her SNAP AG consisted of herself and her two children. She submitted this form to the WV DHHR on September 9, 2014.

## **APPLICABLE POLICY**

West Virginia Income Maintenance Manual (WV IMM) Chapter 1.2.E 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/her eligibility.

WV IMM Chapter 20.2 states that when an AG 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.

WV IMM Chapter 20.2.C.2 provides that once an IPV (Intentional Program Violation) is established, a disqualification penalty is imposed on the AG members who committed the IPV. The penalties are as follows: First Offense – one year disqualification; Second Offense – two years disqualification; Third Offense – permanent disqualification.

WV IMM Chapter 20.6 states, "A willfully false statement is one that is deliberately given, with the intent that it be accepted as true, and with the knowledge that it is false . . . It is not essential that an affirmative representation be made. Misrepresentation may also be the suppression of what is true, as well as the representation of what is false."

Pursuant to the Code of Federal Regulations 7 CFR Section 273.16, an Intentional Program Violation shall consist of a SNAP recipient 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.

## **DISCUSSION**

The Defendant reported that her SNAP assistance group consisted of herself and her two children on an Emergency Assistance application in April 2014 and a SNAP review in September 2014. The Department provided clear and convincing evidence that the Defendant's husband, who received unearned income, lived in her home during this time.

## **CONCLUSIONS OF LAW**

- 1) Pursuant to the Code of Federal Regulations and Common Chapters Manual, the Defendant made a false or misleading statement, or misrepresented, concealed or withheld facts, in order to receive SNAP benefits to which he was not legally entitled.
- 2) The Department presented clear and convincing evidence that Defendant committed an Intentional Program Violation by not reporting that her husband, who received unearned

income, lived in her household during the period of April through December, 2014, in violation of WV IMM §1.2.E. The Department must impose a disqualification penalty.

3) The disqualification for a first offense IPV is one year.

**DECISION**

It is the ruling of the Hearing Officer that the Defendant committed an Intentional Program Violation. She will be disqualified from participating in SNAP for one year, beginning August 1, 2015.

**ENTERED this 30<sup>th</sup> Day of June 2015.**

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**Stephen M. Baisden  
State Hearing Officer**