



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
416 Adams St.  
Fairmont, WV 26554

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

September 28, 2015



RE: [REDACTED] v. WVDHHR  
ACTION NO.: 15-BOR-1995

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: Melissa Barr, CI, WVDHHR

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

████████████████████,

**Defendant,**

v.

**Action Number: 15-BOR-1995**

**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 May 7, 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 September 9, 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 Melissa Barr, Criminal Investigator. The Defendant failed to appear. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Advance Notice of Administrative Disqualification Hearing Waiver dated 4/20/15
- D-2 7 CFR §273.16 Code of Federal Regulations
- D-3 Combined Application and Review Form (CAF) and Rights and Responsibilities dated 9/4/09
- D-4 Combined Application and Review Form (CAF) and Rights and Responsibilities dated 2/1/10
- D-5 Verification of Employment Income from ██████████.
- D-6 WV Income Maintenance Manual §1.2.E
- D-7 WV Income Maintenance Manual §2.2.B
- D-8 WV Income Maintenance Manual §2.2B.4

- D-9 WV Income Maintenance Manual §20.2  
D-10 WV Income Maintenance Manual §9.1.A.2.h  
D-11 Electronic Disqualified Recipient System (eDRS), retrieved from [https://www.edrsng.fns.usda.gov/Query/Query\\_Main.aspx](https://www.edrsng.fns.usda.gov/Query/Query_Main.aspx), on 4/20/15

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 May 7, 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), formerly Food Stamp Program, for a period of 12 months.
- 2) Notification of the September 9, 2015 hearing was mailed to the Defendant on August 4, 2015, via Certified, Restricted Delivery U.S. Mail. The Defendant's signature appears on the return receipt verifying she received notice on August 6, 2015.
- 3) The hearing convened as scheduled at 9 a.m., and as of 9:15 a.m., the Defendant failed to appear. As set forth in the Code of Federal Regulations found at §7 CFR 273.16 (e) (4), and the West Virginia Department of Health and Human Resources Common Chapters Manual, Chapter 740.20, the hearing was conducted without the Defendant in attendance.
- 4) The Defendant completed a SNAP application/review (D-3) on September 4, 2009 and reported that the only income in her four-person household was from her employment at REM. Defendant completed another SNAP application/review (D-4) on February 1, 2010, and again indicated that her employment income from [REDACTED] was the only household income.
- 5) Exhibit D-5, however, verifies the Defendant was also receiving employment income from [REDACTED], when she completed her SNAP applications/reviews in September 2009 (D-3) and February 2010 (D-4). According to the evidence, Defendant began employment at [REDACTED] on June 9, 2009 and had unreported earnings in the amount of \$11,240.39 while she received SNAP benefits during the period of September 2009 through April 2010.
- 6) Movant contended that by withholding information about household income, the Defendant received \$2,839 in SNAP benefits to which she was not legally entitled during the period of September 2009 through April 2010. Movant noted, however, that the Defendant has already begun repaying SNAP benefits received during this period.

- 7) The Defendant signed her SNAP application/review forms certifying that the information she provided was true and correct, and she signed the Rights and Responsibilities forms 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.

According to the West Virginia Income Maintenance Manual, §2.2.B, all SNAP AGs must report changes related to eligibility and benefit amount at application and redetermination.

West Virginia Income Maintenance Manual §10.4.C., contains policy relating to income and computation of SNAP benefits. It also states - to determine the coupon allotment, find the countable income and the number (of persons) in the benefit group.

West Virginia Income Maintenance Manual §20.2 provides that when an AG (Assistance Group) has been issued more SNAP than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation (UPV) or Intentional Program Violation (IPV) claim. The claim is the difference between the entitlement the AG received and the entitlement the AG should have received. An IPV can be established by an Administrative Disqualification Hearing (ADH) decision or by a court decision. If the court fails to impose a disqualification period, the Department imposes the appropriate penalty as indicated in §9.1.A.2.g

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 is clear and convincing that the Defendant intentionally withheld household employment/wage information - on no fewer than two (2) occasions – to receive SNAP benefits to which she was not legally entitled.

### CONCLUSIONS OF LAW

- 1) The regulations that govern the SNAP provide 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 withheld information about her household income in order to receive SNAP benefits to which she was not legally entitled. This clearly establishes intent.
- 3) The evidence is clear and convincing 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. Only the Defendant is subject to the disqualification. The disqualification for a first offense is 12 months.

### DECISION

Intentionally making a false or misleading statement or misrepresenting facts to secure SNAP benefits constitutes a clear violation of the regulations. The Agency's proposal to apply a SNAP disqualification is **upheld**. The disqualification period will begin effective November 1, 2015.

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

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