



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

August 3, 2015

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 15-BOR-1998

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-1998**

**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 July 21, 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 Verification of guilty plea by the Defendant in the ██████████, West Virginia, Magistrate Court – Case #14M-566 – March 25, 2014
- D-2 Advance Notice of Administrative Disqualification Hearing Waiver dated April 20, 2015
- D-3 Code of Federal Regulations 7 CFR §273.16
- D-4 Combined Application and Review Form (CAF) and Rights and Responsibilities signed by Defendant on 12/3/09
- D-5 Combined Application and Review Form (CAF) and Rights and Responsibilities signed by Defendant on 5/10/10
- D-6 Combined Application and Review Form (CAF) and Rights and Responsibilities signed by Defendant on 11/23/10

- D-7 Verification from [REDACTED] regarding the custody of [REDACTED]
- D-8 [REDACTED] school enrollment verification from [REDACTED] – received 1/31/11
- D-9 SNAP overpayment calculation sheets for the period December 2009 through February 2011 and WV Income Maintenance Manual, Chapter 10, Appendix A,
- D-10 WV Income Maintenance Manual §1.2.E
- D-11 WV Income Maintenance Manual §2.2.B
- D-12 WV Income Maintenance Manual §2.2.B.4
- D-13 WV Income Maintenance Manual §20.2.C.2
- D-14 WV Income Maintenance Manual §9.1.A.2.h
- D-15 Electronic Disqualification Recipient System (eDRS), retrieved on 4/20/15 from [https://www.fns-edrs.usda.gov/query/Query\\_print\\_results.aspx](https://www.fns-edrs.usda.gov/query/Query_print_results.aspx)

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) for a period of 12 months.
- 2) Notification of the July 21, 2015 hearing was mailed to the Defendant on June 1, 2015, via First Class U. S. Mail, as the Defendant is a current recipient of public assistance benefits and resides at a confirmed address.
- 3) The hearing convened as scheduled at 12 p.m., and as of 12:15 p.m., the Defendant failed to appear. As set forth in the Code of Federal Regulations found at §7 CFR 273.16 (e) (4), and State Policy (West Virginia Department of Health and Human Resources Common Chapters Manual, Chapter 740.20), the hearing was conducted without the Defendant in attendance.
- 4) Evidence proffered by the Movant reveals that the Defendant completed a Combined Application and Review Form (CAF) and Rights and Responsibilities form on December 3, 2009 (D-4) and reported [REDACTED] was in her household and part of the SNAP Assistance Group (AG). The Defendant subsequently completed two (2) more CAF forms and the Rights and Responsibilities forms on May 10, 2010 (D-5) and on November 23, 2010 (D-6), reporting that [REDACTED] was part of her SNAP AG.

- 5) Movant submitted Exhibit D-7, information provided by [REDACTED], [REDACTED] father, on April 8, 2011, and [REDACTED] enrollment/attendance verification (D-8), that verifies [REDACTED] was not residing in the Defendant's household during the period for which SNAP benefits were received – December 2009 through February 2011.
- 6) Movant's Exhibit D-9 (SNAP overpayment calculation sheets) indicates that by providing untruthful information about her household composition – reporting three (3) members in the AG instead of two (2) - the Defendant received \$2,448 in SNAP benefits to which she was not legally entitled.
- 7) The Defendant signed her Combined Application/Review Forms and the Rights and Responsibilities forms (Exhibits D-4, D-5 and D-6) certifying that the information she provided was true and correct, and acknowledged 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 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 that her daughter was residing in her home on no fewer than three (3) separate occasions. Moreover, the evidence is clear and convincing that the Defendant's act was intentional – she knowingly provided false and misleading information 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 Defendant was notified timely of the July 21, 2015 Administrative Disqualification Hearing, but failed to appear and refute the evidence submitted in support of an IPV. 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 benefit disqualification is **upheld**. The Defendant will be disqualified from participation in the SNAP for 12 months beginning September 1, 2015.

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

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**Thomas E. Arnett  
State Hearing Officer**