



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 26, 2015



RE: [REDACTED] v. WVDHHR  
ACTION NO.: 15-BOR-2266

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-2266**

**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 Defendant on June 12, 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 August 24, 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 Rebecca Pancake, Repayment Investigator. The Defendant appeared pro se. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- M-1 Movant's Hearing Summary
- M-2 Food Stamp (SNAP) Claim Determination for the period of December 1, 2013 through January 31, 2015
- M-3 Food Stamp (SNAP) Calculation sheets – corrected calculations for the period of December 1, 2013 through January 31, 2015
- M-4 RAPIDS system SNAP disbursements during the period of December 1, 2013 through January 31, 2015
- M-5 RAPIDS system SNAP allotment determination for the period of December 1, 2013 through January 31, 2015
- M-6 RAPIDS system record of case member history

- M-7 RAPIDS system case comments record from Movant's case workers for the period of July 5, 2012 through November 6, 2014
- M-8 SNAP review form and Rights and Responsibilities signed by Defendant on October 25, 2013 and Post Interview Checklist completed by Movant's case worker on November 5, 2013
- M-9 SNAP PRC2 - Periodic Report from signed by the Defendant on October 28, 2014
- M-10 Notice of QC Error Findings dated October 14, 2014, with supporting documentation
- M-11 Advanced Notice of Administrative Disqualification Hearing Waiver dated June 1, 2015
- M-12 Waiver of Administrative Disqualification Hearing
- M-13 WV Income Maintenance Manual §1.2.E (Client Responsibility)
- M-14 WV Income Maintenance Manual §§20.1 and 20.2
- M-15 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) 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 June 12, 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) As a matter of record, the Defendant was advised that the purpose of the hearing was to determine if she had committed a SNAP IPV, however, upon Defendant's verbal agreement, the matter of SNAP repayment will also be addressed.
- 3) Evidence proffered by Movant reveals that the Defendant completed and signed a SNAP review and Rights and Responsibilities form on October 25, 2013 (M-8), and reported that her rent was \$550 per month, and that she was responsible for electric (\$50 per month) and water (\$45 per month). Because the Defendant reported that electric was her primary heat source, she was given the Standard Utility Allowance (SUA) deduction when calculating her SNAP benefit amount. Exhibit M-7 confirms that the Defendant reported the same information to Movant's case worker when she completed her SNAP interview/review on November 5, 2013.

Respondent submitted Exhibit M-9, a SNAP 12-month periodic report form completed and signed by the Defendant on October 28, 2014, to indicate the Defendant reported there were no changes in her SNAP assistance group.

- 4) Movant contended that information secured by its Quality Control (QC) unit (Exhibit M-10) reveals that Defendant's landlord verified that Defendant's utilities have been included in her rent since November 2013. This statement, signed by Defendant's landlord [REDACTED] on October 7, 2014, indicates that all of the utilities are included in the Defendant's monthly rent payment of \$550, and that gas is the primary heat source.
- 5) Movant submitted Exhibits M-2, M-3, M-4 and M-5 to demonstrate that because the Defendant was untruthful about being responsible for her utilities and the cost of heating, she was issued \$1,384 in SNAP benefits during the period of December 1, 2013 through January 31, 2015, to which she was not entitled.
- 6) The Defendant contended that she submitted documentation to report a change in her responsibilities for paying utilities in April 2014, however, Movant's representative reported she was unaware of this document in Defendant's file, and it is not noted in the case comments (Exhibit M-7). The only document submitted by the Defendant that sounds similar is a handwritten statement dated July 7, 2014 - signed by the Defendant and her landlord [REDACTED] - which indicates the Defendant paid \$550 per month rent in May, June and July 2014 which included utilities.

As a matter of record, the Defendant acknowledged that none of the utility bills were ever in her name, but insisted that she had to pay a percentage of the monthly water and electric utility.

- 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, deductions, and the 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 assistance group received and the entitlement the assistance group should have received.

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 submitted in this case confirms that during her October/November 2013 SNAP review (M-7 and M-8), the Defendant reported that in addition to her monthly rent payment of \$550, she was responsible for her electric utility, and indicated that electric was her primary heat source. However, information received from Defendant's landlord in October 2014 (M-10) confirms that the Defendant was not responsible for any utilities in November 2013 and the residence's primary heat source was gas. Moreover, the statements provided by the Defendant and her landlords (M-10) fail to indicate any months the Defendant would have been responsible for paying utilities subsequent to November 2013, and the utilities were never in her name. Because the Defendant provided untruthful information about household income deductions, she was afforded a SNAP utility deduction for which she did not qualify, causing an over payment in SNAP benefits in the amount of \$1,384 during the period of December 2013 through January 2015.

## 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) Because the Defendant's AG has been issued more SNAP benefits than it was entitled to receive, the Movant is authorized by the regulations to take corrective action by establishing a repayment claim. The claim (\$1,384) is the difference between the entitlement the AG received and the entitlement the AG should have received.
- 3) The evidence confirms the Defendant knowingly provided untruthful information about her utility expenses in order to receive SNAP benefits to which she was not legally entitled. This clearly establishes intent.
- 4) The evidence is clear and convincing that the Defendant committed an Intentional Program Violation, as defined in the SNAP policy and regulations.
- 5) 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

The Department's proposal to apply a 12-month benefit disqualification and seek repayment of over issued SNAP benefits in the amount of \$1,384 is **upheld**. The Defendant will be disqualified from participation in the SNAP for 12 months beginning October 1, 2015.

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

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