



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

August 13, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 15-BOR-2279

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: Fred Francis, Criminal Investigator

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

██████████,

**Defendant,**

v.

**Action Number: 15-BOR-2279**

**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 June 15, 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 August 11, 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 12 months.

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

**Movant's Exhibits:**

- M-1 Combined Application Form (CAF) and Rights and Responsibility form, signed and dated by Defendant on October 1, 1999
- M-2 CAF and Rights and Responsibility form, signed and dated by Defendant on July 19, 2000
- M-3 Project Recall Phone Questionnaire, conducted on October 24, 2000
- M-4 Earnings verification letter from Department to employer of Defendant's husband, dated January 25, 2001, completed and returned by employer on February 7, 2001
- M-5 Written statement signed by Defendant, dated June 16, 2004

**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 member of her household and SNAP assistance group, had been working and receiving earned income and had moved out of the Defendant's home in June 2000. The Defendant made this misrepresentation on SNAP reviews from October 1999 (Exhibit M-1) and July 2000 (Exhibit M-2). Because the Defendant failed to report this information, her SNAP assistance group (AG) received SNAP benefits to which it was not entitled from July through November 2000, in the amount of \$1,247.
- 2) The Defendant performed a SNAP review/redetermination in October 1999, reporting that her household and SNAP assistance group consisted of herself, her husband and their daughter. She reported that the only household income consisted of earnings from her part-time job at a nursing home (Exhibit M-1).
- 3) The Defendant performed another SNAP review/redetermination in July 2000, again reporting that her household and SNAP assistance group consisted of herself, her husband and their daughter. She reported again that the only income in her household was her part-time earnings from the nursing home (Exhibit M-2).
- 4) In the year 2000, the Department began a program known as Project Recall, wherein workers spot-checked certain SNAP cases by telephoning the primary person and conducting a questionnaire related to the household's composition, income, and shelter/utility costs. Pursuant to this initiative, a worker called the Defendant on October 24, 2000, and completed a questionnaire form (Exhibit M-3). According to this form, the Defendant reported that her household consisted of herself, her husband and their child, and that no one in her home received earned or unearned income.
- 5) Investigating a referral that the Defendant's husband was working, the Department sent to [REDACTED] of [REDACTED] WV, a form requesting verification of his earnings and the beginning date of his employment. An accountant there returned this form on February 7, 2001 (Exhibit M-4), indicating the Defendant's husband had been working there since November 1994, and was working there at the time the form was completed.
- 6) In June 2004, the Department interviewed the Defendant regarding the allegation that she had not reported her husband was working in 2000. She signed a statement (Exhibit M-5) indicating she and her husband separated in June 2000, at which time he moved out of her home. In the statement, she did not address the issue of her husband's earned income.

## **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 household received no earned or unearned income during SNAP reviews from October 1999 and July 2000. She reported that her household consisted of three persons, herself, her husband and their daughter. The Department provided clear and convincing evidence that her husband was working and had been working for several years before she performed these reviews. The Department provided a statement signed by the Defendant wherein she admitted that she did not report her husband had moved out of her home.

## **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 she was not legally entitled.

- 2) The Department presented clear and convincing evidence that the Defendant committed an Intentional Program Violation (IPV) by not reporting her husband was working and receiving earned income, during SNAP reviews from October 1999 and July 2000. Also, she did not report that her husband moved out of her home in June 2000. Because these omissions are 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 September 1, 2015.

**ENTERED this 13<sup>th</sup> Day of August 2015.**

---

**Stephen M. Baisden  
State Hearing Officer**