



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
1027 N. Randolph Ave.  
Elkins, WV 26241

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

January 28, 2015

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 14-BOR-3604

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,

Pamela L. Hinzman  
State Hearing Officer  
Member, State Board of Review

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

cc: Board of Review  
Cassie Burns, WVDHHR

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

██████████,

**Defendant,**

v.

**Action Number: 14-BOR-3604**

**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 November 6, 2014. 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 January 14, 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 (IPV) and should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Department appeared by Cassie Burns, Repayment Investigator, WVDHHR. The Defendant failed to appear.

All participants were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Code of Federal Regulations Section 273.16
- D-2 Food Stamp Claim Determination for the period of November 2013-April 2014, Food Stamp Claim Calculation Sheet and Food Stamp Allotment Determinations
- D-3 Change of address information for Defendant
- D-4 SNAP inROADS redetermination form dated October 24, 2013
- D-5 Case Comments from Department's computer system dated November 1, 2013-November 19, 2013
- D-6 WV State Online Query- RSDI and SSI Information Responses for ██████████
- D-7 Driver History Inquiry- Driver ID for ██████████

D-8	West Virginia Income Maintenance Manual Chapter 9.1.A.1(2)
D-9	West Virginia Income Maintenance Manual Chapter 1.2.E
D-10	West Virginia Income Maintenance Manual Chapter 20.2
D-11	West Virginia Income Maintenance Manual Chapter 20.6
D-12	Advance Notice of Administrative Disqualification Hearing Waiver dated June 12, 2014, and Waiver of Administrative Disqualification Hearing

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 November 6, 2014. 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 January 14, 2015 hearing was mailed to the Defendant on November 20, 2014, via Certified and Registered U.S. Mail, as the Defendant was no longer a recipient of Department benefits. Verification from the U.S. Postal Service reveals that the Defendant received and signed for the notice on December 3, 2014.
- 3) The hearing convened as scheduled at 10 a.m., and as of 10:15 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) Cassie Burns, Repayment Investigator for the Department, testified that on October 24, 2013, the Defendant completed a redetermination of her SNAP benefits via the inROADS computer system (D-4). A follow-up telephone interview was completed by the Respondent on November 19, 2013, at which time the Defendant reported that she was homeless and staying with various friends and family, but was primarily residing at [REDACTED] (see Case Comments, Exhibit D-5). The Defendant had also reported the [REDACTED] address to the Respondent on September 20, 2013 (see change of address information, Exhibit D-3). Case Comments (D-5) indicate the Defendant stated during the November 19, 2013 telephone interview that the [REDACTED] address was the residence of a friend.

- 5) The Department later learned that the [REDACTED] address provided by the Defendant was the address of the Defendant's mother, [REDACTED]. This information was verified via a Driver History Inquiry and a Social Security Administration information exchange for [REDACTED] (D-6 and D-7).
- 6) Investigator Burns contended that the Defendant was under the age of 22 at the time of the SNAP redetermination and was, therefore, required by policy to be included in an Assistance Group with her mother since they were residing in the same household. She contended that [REDACTED] and her Social Security income (see Exhibit D-6) must be considered for SNAP purposes.
- 7) As a result of the Defendant's failure to report the correct household composition/income information, Investigator Burns contends that the Defendant received \$1,044 in SNAP benefits to which she was not entitled for the period of November 2013 through April 2014 (see Exhibit D-2).

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual 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.

West Virginia Income Maintenance Manual Chapter 9.1.A.1(2) (D-8) states that natural or adopted children and stepchildren who are under the age of 22 and living with a parent must be in the same SNAP Assistance Group as the parent.

West Virginia Income Maintenance Manual Chapter 20.2 (D-10) states that when an Assistance Group (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.

West Virginia Income Maintenance Manual 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: (Chapter 9.1, A, 2, h) 1st Offense: 1 year (Disqualification); 2<sup>nd</sup> Offense: 2 years (Disqualification); 3<sup>rd</sup> Offense: Permanent.

### **DISCUSSION**

Evidence demonstrates that the Defendant completed a SNAP telephone redetermination in November 2013, reporting an address of [REDACTED], and indicating that the address belonged to a friend. While the Defendant reported being homeless, she indicated that

she stayed at the [REDACTED] address the majority of the time. The Department later verified that the [REDACTED] address belonged to the Defendant's mother, [REDACTED]. As the Defendant was required by policy to be included in a SNAP Assistance Group with her mother since she was under age 22 at the time of the SNAP redetermination, her SNAP eligibility could not be correctly determined by the Department. Therefore, the Department has appropriately established that the Defendant committed an Intentional Program Violation.

### **CONCLUSIONS OF LAW**

The Department acted correctly in proposing the Defendant's disqualification from the SNAP based on the commission of an Intentional Program Violation. The one-year disqualification period will begin effective March 1, 2015.

### **DECISION**

The Department's proposal to apply a one (1)-year SNAP benefit disqualification is **upheld**.

ENTERED this 28th Day of January 2015.

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**Pamela L. Hinzman**  
**State Hearing Officer**