



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

February 20, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 14-BOR-3613

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 ther 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: Cassandra Burns, Repayment Investigator

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

██████████,

**Defendant,**

**v.**

**Action Number: 14-BOR-3613**

**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 WV Department of Health and Human Resources' (WV DHHR) Common Chapters Manual and Federal Regulations at 7 CFR Section 273.16. The hearing was convened on January 27, 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 twelve months.

At the hearing, the Department appeared by Cassandra Burns, Repayment Investigator. Appearing as witnesses for the Department were Juna Woodall and Sarah Ellis, Family Support Specialists with the WV DHHR, ██████████ office. The Defendant appeared *pro se*. The participants were sworn and the following documents were admitted into evidence.

**Movant's Exhibits:**

- M-1 Code of Federal Regulations §273.16
- M-2 Form ES-FS-5, Food Stamp (SNAP) Claim Determination
- M-3 Employee Wage Data print-out from the Workforce WV computer network
- M-4 Print-outs from the WV Department of Motor Vehicles (WV DMV) indicating registration information for two vehicles
- M-5 Absent Parent Address print-out from the WV Bureau of Child Support Enforcement's (WV BCSE) computer network
- M-6 Case recordings from Defendant's SNAP record, from March 10 through May 16, 2014

- M-7 SNAP Application Form, signed and dated by Defendant on January 27, 2014
- M-8 West Virginia Income Maintenance Manual (WV IMM) Chapter 1, §1.2.E
- M-9 WV IMM Chapter 20, §20.2
- M-10 WV IMM Chapter 20, §20.6
- M-11 Copy of IG-IFM-ADH-waiver, Waiver of Administrative Disqualification Hearing form, and IG-IFM-ADH-Ltr, Notice of Intent to Disqualify form, sent to Defendant on July 22, 2014

**Defendant's Exhibits**

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence during 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) 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 the father of her child, who was working and receiving earned income, lived in her household from January through August 2014. The Department's representative argued that because the father's income was not reported during SNAP eligibility reviews, the Defendant's SNAP AG received \$3841 in benefits to which it was not entitled.
- 2) On January 27, 2014, the Defendant submitted an application for SNAP (Exhibit M-7). On it, the Defendant entered that her SNAP AG and household consisted of herself and her newborn son, and that she did not receive any earned or unearned income.
- 3) The Department's representative submitted as evidence a print-out from the WV Department of Motor Vehicles (WV DMV) (Exhibit M-4) indicating the father owned two vehicles and listed the owner's mailing address for both vehicles as the Defendant's address. The Department's representative also submitted as evidence a print-out from the WV Bureau of Child Support Enforcement's computer system (Exhibit M-5) indicating the father was the absent parent for another child, and the Absent Parent Address screen in this other child support case listed the same mailing address.
- 4) The Department's representative called as witnesses Juna Woodall and Sarah Ellis, two Family Support Specialists from the WV WORKS unit of the WV DHHR, [REDACTED] office. Ms. Ellis testified that on March 18, 2014, she performed a home visit at the Defendant's home as part of the Defendant's application for WV WORKS cash assistance. She testified that the father was there at the home, and that he answered the door. The Department's representative submitted as evidence case recordings made in the Defendant's case record. These case recordings state as follows in part: "In-home visit completed 3-18-14. [REDACTED] [Defendant's child's] father was @ the home. [Defendant] reported that

he was just visiting.” The Department’s witness, Ms. Ellis, confirmed that she made this recording.

- 5) The Department’s representative submitted evidence to the effect that the father was working throughout the period of January through August 2014. She submitted a print-out of quarterly earnings statements on the father from Workforce WV (Exhibit M-3).
- 6) The Defendant testified that she did not intentionally do anything wrong, and her child’s father was not living with her from January through August 2014. She stated that when the WV WORKS workers came to her home in March 2014, the father was at her home visiting his child. She stated he asked her if he could use her mailing address to register his two vehicles, and she permitted him to do so. She stated that she did not know if he knew he had not changed his mailing address with the Bureau of Child Support Enforcement. She added that since August 2014, she and the father have reconciled their relationship, and he lives with her at present.

### **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 her/her circumstances so the worker is able to make a correct decision about her/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 she 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 Department provided clear and convincing evidence that the father of the Defendant's child lived with her from January through August 2014. His vehicles were registered at the Defendant's mailing address, he listed the Defendant's address as his with the Bureau of Child Support Enforcement, and he was at the home when WV WORKS workers performed a home visit there. Although the Defendant testified that the father did not live with her, she did not provide evidence to contradict the Department's documentation or testimony.

## **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 Defendant committed an Intentional Program Violation by not reporting that her child's father lived with her, while working and receiving earned income, 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 in April 2015.

**ENTERED this 20<sup>th</sup> Day of February 2015.**

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**Stephen M. Baisden  
State Hearing Officer**