



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

March 6, 2015



RE: [REDACTED] v. WV DHHR  
ACTION NO.: 14-BOR-3783

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: Brian Shreve, Repayment Investigator

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

██████████,

**Defendant,**

v.

**Action Number: 14-BOR-3783**

**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 December 3, 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 February 10, 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 Brian Shreve, Repayment Investigator. The Defendant did not appear. The participant was sworn and the following documents were admitted into evidence.

**Movant's Exhibits:**

- M-1 Code of Federal Regulations §273.16
- M-2 Benefit Recovery Referral, dated September 25, 2014
- M-3 Form ES-FS-5, Food Stamp (SNAP) Claim Determination
- M-4 Print-out from WV Department of Vital Statistics (iPACT) and print-out from WV Department of Motor Vehicles
- M-5 Earnings verification letter from Department to employer of Defendant's husband, dated August 28, 2014, completed and returned by employer on September 3, 2014

- M-6 SNAP Mail-in Review Form, signed by Defendant on June 14, 2013
- M-7 Case recordings from Defendant's SNAP record, from June 17 through August 6, 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 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 October 16, 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 contended the Defendant committed an Intentional Program Violation and should be disqualified from SNAP for one year because she intentionally withheld the facts that she was married and that her husband received earned income, from June 1, 2013 through October 31, 2014. The Department's representative argued that because the Defendant did not report the change in her household composition and income, her SNAP Assistance Group (AG) received \$2614 in benefits to which it was not entitled.
- 2) On June 14, 2013, the Defendant submitted a SNAP mail-in review form (Exhibit M-6), wherein she claimed only herself in her SNAP AG, with no earned or unearned income. She signed and dated this document.
- 3) A print-out from WV Department of Vital Statistics' internet service, known as iPACT, indicates the Defendant was married on May 4, 2013 (Exhibit M-4). Additionally, a print-out from the WV Department of Motor Vehicles (Exhibit M-4, page 2) shows that the person identified on the iPACT print-out as the Defendant's husband has the same mailing address as the Defendant.
- 4) A Verification of Employment letter and attached verification forms (Exhibit M-5) sent to the employer of the Defendant's husband on August 28, 2014, shows he began working for the employer on March 4, 2013, was paid biweekly for an average of \$1509 per pay period, and was still working at the time the form was completed.

## **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.

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 SNAP assistance group consisted of herself alone on a SNAP mail-in review form from June 2013. The Department provided clear and convincing evidence that the Defendant was married in May 2013, that the Defendant and her husband lived together, and that her husband received earned income.

## **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 she was married and that her husband received earned income during the period of June 1, 2013 through October 31, 2014, 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 April 1, 2015.

**ENTERED this 6<sup>th</sup> Day of March 2015.**

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**Stephen M. Baisden  
State Hearing Officer**