



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

September 9, 2016

[REDACTED]  
[REDACTED]  
[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 16-BOR-2277

Dear [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: Appellant's Recourse to Hearing Decision  
Form IG-BR-29

cc: Addison Hamilton, Criminal Investigator

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

██████████,

**Defendant,**

v.

**Action Number: 16-BOR-2277**

**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 28, 2016. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' (WV DHHR) Common Chapters Manual and Federal Regulations at 7 CFR §273.16. The hearing was convened on September 7, 2016.

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 Addison Hamilton, Criminal Investigator. The Defendant did not appear. The participant was sworn and the following documents were admitted into evidence.

**Movant's Exhibits:**

- M-1 West Virginia Income Maintenance Manual (WV IMM) Chapter 1, §1.2.E
- M-2 Code of Federal Regulations §273.16
- M-3 WV IMM Chapter 2, §2.2
- M-4 Combined Application Form (CAF) and Rights and Responsibilities form, signed and dated by Defendant on December 22, 2009
- M-5 CAF and Rights and Responsibilities form, signed and dated by Defendant on June 22, 2010
- M-6 CAF and Rights and Responsibilities form, signed and dated by Defendant on January 3, 2011
- M-7 CAF and Rights and Responsibilities form, signed and dated by Defendant on June 27, 2011
- M-8 SNAP and Medicaid mail-in review form, signed and dated by Defendant on November 28, 2011

- M-9 SNAP and Medicaid telephone review form, signed and dated by Defendant on June 20, 2012
- M-10 SNAP application form, signed and dated by Defendant on January 31, 2013
- M-11 SNAP mail-in review form, signed and dated by Defendant on November 15, 2013
- M-12 Information request form sent from criminal investigator to former mother-in-law of Defendant, signed and dated by her on November 23, 2013
- M-13 Written statement by neighbor of Defendant's former mother-in-law, dated January 30, 2014
- M-14 School Enrollment and Attendance form sent from criminal investigator to ██████████ County Board of Education, returned on January 17, 2013
- M-15 Order Redirecting Child Support from ██████████ County WV Family Court, dated September 14, 2012
- M-16 Order Modifying Child Support from ██████████ County WV Family Court, dated December 3, 2012
- M-17 Written statement by Defendant, dated April 24, 2014
- M-18 Report of Overpayment Determination for January – June 2010
- M-19 Report of Overpayment Determination for July – December 2010
- M-20 Report of Overpayment Determination for January – June 2011
- M-21 Report of Overpayment Determination for July – December 2011
- M-22 Report of Overpayment Determination for January – June 2012
- M-23 Report of Overpayment Determination for July – December 2012
- M-24 Report of Overpayment Determination for January – June 2013
- M-25 Report of Overpayment Determination for January – February 2014
- M-26 WV IMM Chapter 20, §20.6
- M-27 WV IMM Chapter 20, §20.2

**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 contended the Defendant committed an Intentional Program Violation and should be disqualified from SNAP for one year because she intentionally withheld the fact that her older daughter, whom she reported as living in her home and for whom she received SNAP benefits, did not live with her from December 2009 through February 2014. The Department's representative argued that because the Defendant did not report her daughter lived elsewhere, her SNAP Assistance Group (AG) received \$6,462 in benefits to which it was not entitled.
- 2) On December 22, 2009, the Defendant completed a SNAP review wherein she reported her household consisted of herself and her two daughters (Exhibit M-4).

- 3) The Defendant completed in-person, mail-in and telephone applications and reviews over the ensuing years (Exhibits M-5, M-6, M-7, M-8, M-9, M-10 and M-11). At each of these applications and reviews, she reported her household consisted of herself and her two daughters.
- 4) On November 23, 2013, the Defendant's ex-mother-in-law, her children's grandmother, completed an information request form from the WV DHHR, Investigations and Fraud Management unit (Exhibit M-12). On this form she indicated that the older of the Defendant's two daughters lived with her and had done so for the previous four years.
- 5) On April 24, 2014, the Defendant signed a written statement (Exhibit M-17) wherein she wrote as follows in part: "I see [older daughter] sporadically and her grandmother has her as I don't want to take her from her school. I would have her during the daytime, but she went to bed and slept at her grandmother's as [older daughter's] grandmother had care and control of her. I am willing to pay back what I owe."

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual (WV IMM) Chapter 1, §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 2, §2.2.B reads as follows in part: "All SNAP AGs [assistance groups] must report changes related to eligibility and benefit amount at application and redetermination."

WV IMM Chapter 20, §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 §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 contends that the Defendant committed an Intentional Program Violation (IPV) by not reporting her correct household composition on SNAP applications and redeterminations from December 2009 to November 2013. During this period of time, the Defendant reported that her assistance group consisted of herself and her two children. This meets the definition of an

IPV as stated in 7 CFR Section 273.16, in that the Department alleges the Defendant made false or misleading statements and misrepresented, concealed or withheld facts.

The Department's representative provided an information request form signed by the grandmother to the effect that the older child had lived with her for several years (Exhibit M-12). He provided court documents entered in the Family Court of ██████████ County, WV, to the effect that child support had been redirected from the Defendant to the children's grandmother (Exhibits M-15 and M-16). Also, he provided a statement signed by the Defendant on April 24, 2014, wherein the Defendant acknowledges her older daughter lived with her grandmother and she is willing to repay SNAP benefits received in error.

The Department provided clear and convincing evidence that the Defendant reported the older of her two daughters lived with her, when in fact the daughter lived with her grandmother, on SNAP application and reviews from December 2009 to November 2013. The Department acted correctly to impose an Intentional Program Violation against the Defendant.

### **CONCLUSIONS OF LAW**

- 1) Pursuant to the Code of Federal Regulations and the 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 incorrectly reporting her household composition on SNAP applications and redeterminations from December 2009 to November 2013, in violation of WV IMM §1.2.E and §2.2.B. The Department must impose a disqualification penalty.
- 3) The disqualification for a first-offense IPV is one year, according to WV IMM §20.2.C.2.

### **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 October 1, 2016.

**ENTERED this 9<sup>th</sup> Day of September 2016.**

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**Stephen M. Baisden**  
**State Hearing Officer**