



**State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review**

**Joe Manchin, III  
Governor**

**Martha Yeager Walker  
Secretary**

July 1, 2009

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 5, 2009 for the purpose of determining whether or not an Intentional Program Violation occurred requiring a repayment of Supplemental Nutrition Assistance Program (SNAP) benefits.

In arriving at a decision, the State Hearings 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.

Eligibility for SNAP is based on current policy and regulations. These regulations provide that Intentional Program Violations shall consist of 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 relating to the use, presentation, transfer, acquisition, receipt or possession of Food Stamp coupons. Individuals found to have committed an act of Intentional Program Violation will be ineligible for a specified time determined by the number of previous Intentional Program Violation disqualifications (West Virginia Income Maintenance Manual § 20.2 and Code of Federal Regulations - 7 CFR § 273.16).

The information which was submitted at your hearing revealed that you intentionally misrepresented your relationship with your mother in order to obtain SNAP benefits as a separate Assistance Group.

It is the decision of the State Hearings Officer to **Uphold** the proposal of the Department to impose an Intentional Program Violation and repayment of SNAP benefits of \$868.

Sincerely,

Kristi Logan  
State Hearings Officer  
Member, State Board of Review

cc: Board of Review  
Christine Allen, Repayment Investigator

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

-----,

**Defendant,**

**v.**

**Action Number: 09-BOR-1100**

**West Virginia Department of  
Health and Human Resources,**

**Respondent.**

**DECISION OF STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from an Administrative Disqualification Hearing concluded on June 5, 2009 for ----- . This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing was convened on June 5, 2009.

**II. PROGRAM PURPOSE:**

The Program entitled Supplemental Nutrition Assistance Program (SNAP) is administered by the West Virginia Department of Health & Human Resources.

The purpose of SNAP is to provide an effective means of utilizing the nation's abundance of food "to safeguard the health and well-being of the nation's population and raise levels of nutrition among low-income households." This is accomplished through the issuance of EBT benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

**III. PARTICIPANTS:**

-----, Defendant

-----, Defendant's Mother

Christine Allen, Repayment Investigator

Presiding at the Hearing was Kristi Logan , State Hearing Officer and a member of the Board of Review.

This hearing was held by videoconference.

**IV. QUESTIONS TO BE DECIDED:**

The question to be decided is whether or not an Intentional Program Violation occurred requiring a repayment of SNAP benefits.

**V. APPLICABLE POLICY:**

WV Income Maintenance Manual § 1.2 E, 9.1A(2) and 20.2  
Code of Federal Regulations- 7 CFR ' 273.16

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

- D-1 Hearing Summary
- D-2 SNAP Claim Determination Form
- D-3 SNAP Issuance History Screen (IQFS) from RAPIDS Computer System
- D-4 SNAP Allotment Determination Screen (EFAD) from RAPIDS Computer System
- D-5 Case Members History Screen (AQCM) from RAPIDS Computer System
- D-6 Case Comments (CMCC) from RAPIDS Computer System
- D-7 Child Data Screen (CHLD) from OSCAR Computer System
- D-8 Combined Application Form dated July 28, 2008
- D-9 Rights and Responsibilities Form dated July 28, 2008
- D-10 SNAP Approval Letter dated July 30, 2008
- D-11 SNAP Repayment Notification Letter dated March 25, 2009
- D-12 Notification of Intent to Disqualify Letter dated March 25, 2009
- D-13 WV Income Maintenance Manual § 1.2 E
- D-14 WV Income Maintenance Manual § 9.1 A
- D-15 WV Income Maintenance Manual § 20.1
- D-16 Code of Federal Regulations- 7 CFR ' 273.16

**Defendants' Exhibits:**

None

**VII. FINDINGS OF FACT:**

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from Department of Health and Human Resources' State Repayment Investigator, Christine Allen, on April 28, 2009. The Department contends that the

- 2) The Defendant was notified by a Notification of Intent to Disqualify letter dated March 25, 2009 that the Department had reason to believe he intentionally violated the SNAP program by failing to report accurate household composition at application. The result was an overpayment of \$868 in SNAP benefits.
- 3) Defendant applied for SNAP benefits on July 28, 2008. Defendant reported to his caseworker that he was living with -----, who was a relative of his. Case comments dated July 29, 2008 regarding Defendant's SNAP application state:

Client states he has 0 income. He states he lives w/relatives. I asked if he was living in HH [household] w/parents and he states he is not, although he is living in -----'s HH.

- 4) The caseworker specifically asked Defendant if he was living with his parents and he stated he was not. SNAP benefits were approved for Defendant and a referral to the Front End Fraud Unit was made (D-6).
- 5) The fraud investigator found that Defendant was living with his mother, -----, and had been since his SNAP application in July 2008 (D-6). The Department argues that Defendant was under age 22 and residing with his mother during that time period and was not eligible to receive SNAP benefits as a separate Assistance Group. Defendant intentionally misrepresented his relationship to ----- in order to receive benefits for which he was not eligible.
- 6) Defendant testified that when he applied for SNAP in July 2008, he was living with his mother, ----- and his sister, ----- . Defendant denied ever being asked if he lived with his parents. Defendant stated he was asked if he lived with -----, to which he answered that he did.
- 7) -----, Defendant's mother, testified that she was present at Defendant's SNAP application. ----- stated she signed a statement for him to give to his caseworker that said they lived together but purchased and prepared their meals separately. ----- also stated that Defendant was never asked if she was his mother.
- 8) WV Income Maintenance Manual § 1.2 E states:

The client's responsibility is to provide information about his circumstances so the Worker is able to make a correct decision about his eligibility. When the client is not able to provide the required verification, the Worker must assist him. The client must be instructed that his failure to fulfill his obligation may result in one or more of the following actions:

- Denial of application

- Closure of the active Assistance Group (AG)
- Removal of the individual from the AG
- Repayment of benefits
- Reduction in benefits

9) WV Income Maintenance Manual § 9.1A(2) states:

The following individuals who live together must be in the same AG, even if they do not purchase and prepare meals together.

- Children Under Age 22, Living with a Parent

Natural or adopted children and stepchildren who are under 22 years of age and who live with a parent must be in the same AG as that parent.

10) WV Income Maintenance Manual § 20.2 states:

When an AG has been issued more Food Stamps than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation (UPV) or an Intentional Program Violation (IPV) claim. The claim is the difference between the coupon entitlement of the AG and the coupon allotment the AG was entitled to receive.

11) Code of Federal Regulations- 7 CFR ' 273.16 states:

An Intentional Program Violation shall consist of 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 relating to the use, presentation, transfer, acquisition, receipt or possession of Food Stamp coupons.

## **VIII. CONCLUSIONS OF LAW:**

- 1) In order for an Intentional Program Violation to be established, it must be shown by clear and convincing evidence that the Defendant intentionally made a false or misleading statement or withheld or concealed facts from the Department.
- 2) Policy dictates that it is the responsibility of the SNAP recipients to report accurate household information at application so that a correct determination of benefits can be made. According to the documentation provided by the Department, Defendant incorrectly reported his relationship to his mother, referring to her as only a relative.

- 3) Defendant failed to report accurate information and intentionally misrepresented his household composition. As a result, Defendant was issued SNAP benefits for which he was not entitled to receive. Defendant will be required repay the SNAP overissuance of \$868.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to impose an Intentional Program Violation against Defendant and a repayment of SNAP benefits of \$868.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 1<sup>st</sup> day of July 2009.**

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**Kristi Logan  
State Hearing Officer**