



**State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
2699 Park Avenue, Suite 100  
Huntington, WV 25704**

**Joe Manchin III  
Governor**

**Patsy A. Hardy, FACHE, MSN, MBA  
Cabinet Secretary**

December 11, 2009

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on the SNAP Administrative Disqualification Hearing held August 6, 2009 for the purpose of determining whether an Intentional Program Violation (IPV) was committed by you.

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.

Eligibility for SNAP, formerly known as the Food Stamp Program, is based on current policy and regulations. Some of these regulations state as follows: 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, Chapter 20.2; Code of Federal Regulations 7 CFR ' 273.16)

Information submitted at the hearing revealed that the Department failed to demonstrate that you provided false and misleading household composition information in order to receive SNAP benefits for which you were not entitled.

It is the decision of the State Hearing Officer that an Intentional Program Violation was not committed by you.

Sincerely,

Todd Thornton  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Teresa Smith, Repayment Investigator

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

-----,

**Defendant,**

**v.**

**Action Number: 09-BOR-517**

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

**Movant.**

**DECISION OF STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from an Administrative Disqualification Hearing concluded on December 11, 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 hearing was convened on August 6, 2009.

**II. PROGRAM PURPOSE:**

The purpose of SNAP, formerly known as the Food Stamp Program, 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  
Teresa Smith, Repayment Investigator

Presiding at the Hearing was Todd Thornton, State Hearing Officer and a member of the State Board of Review.

#### **IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Defendant committed an Intentional Program Violation (IPV) and should be disqualified for a specified period from participation in SNAP.

#### **V. APPLICABLE POLICY:**

Code of Federal Regulations, 7 CFR §273.16

Common Chapters Manual, Chapter 700

West Virginia Income Maintenance Manual, Chapter 20.2; Chapter 9.1.A.2.h

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

##### **Department's Exhibits:**

- D-1 Combined Application and Review form dated October 2, 2007, Customer Questionnaire and Rights and Responsibilities form dated October 1, 2007
- D-2 Combined Application and Review form dated January 24, 2008
- D-3 Combined Application and Review form dated March 7, 2008, Customer Questionnaire dated March 8, 2008, and Rights and Responsibilities form dated March 7, 2008
- D-4 Application for Low Income Energy Assistance Program (LIEAP) dated December 3, 2007
- D-5 Application for Low Income Energy Assistance Program (LIEAP) dated January 30, 2008
- D-6 Assignment of Guardian documents for -----and -----
- D-7 dated September 12, 2008
- D-8 Food Stamp Claim Determination form and Food Stamp Allotment Determination data system screen print
- D-9 Food Stamp Claim Determination form and Food Stamp Allotment Determination data system screen prints
- D-10 Food Stamp Claim Determination form and Food Stamp Allotment Determination data system screen prints
- D-11 Notification of Intent to Disqualify and Waiver of Administrative Disqualification Hearing
- D-12 West Virginia Income Maintenance Manual, Chapters 1.2, 1.4, 9.1, 20.1, 20.2; Common Chapters Manual §740.11
- D-13 School verification
- D-14 Food Stamp Claim Determination form

##### **Defendant's Exhibits:**

- Defendant-1 Referral for Child Protective Services, Intake #10548010
- Defendant-2 Referral for Child Protective Services, Intake #10602159
- Defendant-3 Initial Assessment and Safety Evaluation Worksheet and Conclusion
- Defendant-4 Medical Records

## VII. FINDINGS OF FACT:

- 1) The Department is alleging an act of Intentional Program Violation, or IPV, in the Defendant's case, due to household composition falsely reported during applications and reviews for SNAP, formerly known as the Food Stamp Program. Additionally, the Department is alleging that household composition was falsely reported on applications for the Low Income Energy Assistance Program (LIEAP) - applications which afforded the Defendant other opportunities to correct SNAP eligibility factors indirectly.

- 2) The Code of Federal Regulations, 7 CFR §273.16(c), defines an IPV as:

(c) Definition of intentional Program violation. 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 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).

- 3) The Department presented a series of application documents (Exhibits D-1, D-2, D-3, D-4, and D-5) from application interviews completed between October 2007 and March 2008. These documents list the Defendant's daughters – ----- and ----- – as in the home, and the documents were signed by the Defendant.

- 4) The Department presented two documents (Exhibit D-6) signed by the Defendant, assigning guardianship of her children, ----- and -----, to others. The form specific to the Defendant's daughter ----- states, in pertinent part:

Since January 26, 2006, ----- has spent at least 75% of her time at the home of -----and -----located at [REDACTED] WV [REDACTED]

The form specific to the Defendant's daughter ----- states, in pertinent part:

Since January 26, 2006, ----- has spent at least 75% of her time at the home of ----- and -----located at [REDACTED]-----.

- 5) The Department presented school verification (Exhibit D-12), completed by the principal at St. ----- School, which stated that the Defendant's daughter ----- had been enrolled in that school since August 18, 2008, and that the Defendant was not listed as

the parent or guardian, emergency contact person, or transportation provider for -----  
---.

- 6) The Defendant testified that the forms (Exhibit D-6) assigning guardianship of her children were incorrect. She testified that, although she signed these documents, they were not true regarding the percentage of time that her children were out of the home. She testified that her daughter ----- was with her 75% of the time, and that her daughter ----- was with her 95% of the time, from January 26, 2006 through September 12, 2008. She testified that her children were not with her from the point the documents were signed – September 12, 2008 – forward. When questioned, the Defendant testified that she signed these documents, despite their false statements about her past household composition, because of the help her aunt had provided her in the past.
- 7) Teresa Smith, Repayment Investigator for the Department, testified that SNAP repayment claim amounts were initially based on the allegation that one daughter was out of the home, and then recalculated to reflect a time period that both daughters were alleged to be out of the home. The initial claim determination forms (Exhibits D-7, D-8, and D-9) and a recalculated claim determination form (Exhibit D-13) reflect claim periods ending in September 2008. Additionally, these forms reflect the previous name of SNAP – the Food Stamp Program.
- 8) The Defendant presented documents from the Department's Child Protective Services unit (Exhibits Defendant-1, Defendant-2, and Defendant-3), and medical records (Exhibit Defendant-4) to show that her daughters were in her home or in her care during the time the Department alleged they were not. Exhibits Defendant-1 and Defendant-2 list the persons living in the home, as reported to the Department, but precede any investigation contacts by the Department. Exhibit Defendant-3 lists worker contacts. It includes three contacts between a Department worker and the Defendant's daughter ---- -, and one contact between a Department worker and the Defendant's daughter ----- – all conducted at school. No contacts were conducted in the Defendant's home; however, the incident being investigated by the Department's Child Protective Services unit involves interaction between ----- and the Defendant in the Defendant's home in April 2008. The medical records (Exhibit Defendant-4) list the Defendant as the responsible party for -----at the time of her hospital admission in March 2008.

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

- 1) The Department presented school verification to document falsely reported household composition by the Defendant. The school verification, which only identifies responsible persons for the Defendant's daughter, provided a date of August 18, 2008. The West Virginia Income Maintenance Manual, Chapter 20.2.C.2, identifies the first claim month for an IPV claim as "...the first month in which the benefit would have been effective considering the reporting and notice requirements." Because the last month the Department is considering for claim purposes – September 2008 – is prior to the first month that this information could have been used – October 2008 – for claim purposes, considering reporting and notice requirements, this document is not considered.
- 2) The Department presented forms assigning guardianship of the Defendant's daughters to other family members; these forms provided time periods that the daughters were not living with the Defendant. The Defendant's testimony that these statements were untrue is convincing, and her explanation for signing an untrue statement is plausible.
- 3) The Department failed to convincingly establish a false statement by the Defendant regarding household composition. Without a false statement, the definition of an IPV cannot be met. The Department was incorrect in its determination that an IPV was committed by the Defendant.

**IX. DECISION:**

The Agency's proposal to apply a SNAP disqualification is **reversed**.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_ Day of December, 2009.**

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**Todd Thornton**  
**State Hearing Officer**