



**State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
203 E. Third Avenue  
Williamson, WV 25661**

**Earl Ray Tomblin  
Governor**

**Michael J. Lewis, M.D., Ph.D.  
Cabinet Secretary**

December 8, 2010

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on the Supplemental Nutrition Assistance Program (SNAP) Administrative Disqualification Hearing held September 14, 2010 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 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.

An Intentional Program Violation consists of having intentionally made a false or misleading statement, or misrepresented, concealed or withheld facts; or committed any act that constitutes a violation of the Food Stamp Act, SNAP regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of SNAP benefits. [WV Income Maintenance Manual Section 20.2,C,2 and 7 CFR Section 273.16 (c)]

Information submitted at the hearing reveals that you intentionally provided false and misleading information about your residence 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 committed by you and a disqualification penalty of one (1) year will be applied. Your disqualification from SNAP will begin effective January 1, 2011.

Sincerely,

Stephen M. Baisden  
State Hearing Officer  
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review  
Brian Shreve, Repayment Investigator

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

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**Defendant,**

**v.**

**Action Number: 10-BOR-1647**

**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 8, 2010 for ----- . This hearing was held at the [REDACTED] County office of the WV Department of Health and Human Resources (DHHR), in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. The hearing was convened on September 14, 2010.

**II. PROGRAM PURPOSE:**

The purpose of the Supplemental Nutrition Assistance Program (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 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

Brian Shreve, Repayment Investigator

Presiding at the Hearing was Stephen M. Baisden, State Hearing Officer and a member of the State Board of Review.

The Hearing Examiner placed both participants under oath at the beginning of the hearing.

#### **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:**

7 CFR §273.16 Code of Federal Regulations

Common Chapters Manual, Chapter 700

West Virginia Income Maintenance Manual: Chapter 1.2, Chapter 8.2, Chapter 20.2; and Chapter 20.6

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

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

- D-1 Copy of the Code of Federal Regulations (CFR) §273.16 showing disqualifications for Intentional Program Violations.
- D-2 BVRF Screen print from RAPIDS System showing referral for recoupment.
- D-3 ES-FS-5, SNAP Claim Determination sheet.
- D-4 CMCC Screen Print from RAPIDS show case comments made on April 2 and April 6, 2010.
- D-5 Release of Information form from Mingo County (WV) Home Confinement, [REDACTED] WV, signed by Defendant on October 15, 2009.
- D-6 Copy of Combined Application and Rights and Responsibilities forms dated and signed by Defendant on November 9, 2009.
- D-7 CMCC Screen Print from RAPIDS System showing case comments made on November 9, 2009.
- D-8 Print-out from MapQuest, internet mapping service, indicating distance from [REDACTED] WV, to [REDACTED]
- D-9 EBT Administration System transaction history for Defendant.
- D-10 Copy of Income Maintenance Manual Chapter 8.2 showing requirement for WV residence in order to receive SNAP benefits in West Virginia.
- D-11 Copy of Income Maintenance Manual Chapter 1.2.E showing customer responsibility for providing accurate information.
- D-12 Copy of Income Maintenance Manual Chapter 20.2 showing SNAP benefit claims and repayment procedures.
- D-13 Copy of Income Maintenance Manual Chapter 20.6.A showing definitions of Welfare Fraud.
- D-14 Copy of IFM-BR-44 Waiver of Administrative Disqualification Hearing form and IFM-BR-44a Notice of Intent to Disqualify form, and appointment letter for pre-hearing conference on July 13, 2010, sent to Defendant on June 24, 2010.

## VII. FINDINGS OF FACT:

- 1) The Department is alleging an act of Intentional Program Violation, or IPV, in the Defendant's SNAP case because he allegedly failed to report that he was a resident of the state of Kentucky during an application for SNAP benefits on November 9, 2009, and continued to received SNAP benefits from West Virginia while living in [REDACTED] through April, 2010.
- 2) On October 15, 2009, Defendant signed a release of information form with the [REDACTED] County Home Confinement office. (Exhibit D-5.) On this release, he listed his mailing address as -----, -----.
- 3) On November 9, 2009, Defendant came to the [REDACTED] County office of the WV DHHR in [REDACTED] WV, and applied for SNAP benefits. To complete this application, he signed a Combined Application Form (CAF) and Rights and Responsibilities Form. (Exhibit D-6.) He reported his mailing address as [REDACTED] The Economic Services Worker (ESW) who took the application recorded as follows:

“[Defendant] in for [SNAP] application. Reports he is homeless, living here and there. 1 person [assistance group]. No income and no assets.” (Exhibit D-7.)

On April 2, 2010, Defendant returned to WV DHHR, [REDACTED] County office, to perform a benefits review. On that date, the ESW who saw him for the review recorded as follows:

“[Defendant] in to complete 4/10 SNAP rev & apply for [Medicaid]. Reports he still lives here & there – sometimes with his sister & her 2 children & sometimes with a friend & sometimes with a cousin & states all live within WV.” (Exhibit D-4.)

- 4) Department's representative, the Repayment Investigator who investigated the allegation, testified that the [REDACTED] County Home Confinement office contacted the Department on April 6, 2010, to report that Defendant was on home confinement in [REDACTED] from October 15, 2009 to that date. (Exhibit D-4, page two.) He testified that the worker discontinued Defendant's SNAP benefits at that time and sent a referral to the WV DHHR Investigations and Fraud Management office. (Exhibit D-2.)
- 5) Defendant testified that when he was placed on home confinement in October of 2009, he was living with his parents near [REDACTED] But, he stated, when he applied for SNAP benefits on November 9, 2009, he was living in West Virginia. He stated that he stayed in West Virginia for about a week and then moved back into his parents' home because he felt it was a better environment for him to do his home confinement there. He did not offer substantial testimony or evidence to refute the Department's allegations.
- 6) The Code of Federal Regulations, 7 CFR §273.16(c) (Exhibit D-1), defines an Intentional Program Violation (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).

7) The West Virginia Income Maintenance Manual, Chapter 1.2.E (Exhibit D-8), 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 . . . The client must be instructed that his failure to fulfill his obligation may result in one or more of the following actions: denial of the application; closure of the active AG [assistance group]; removal of the individual from the AG; repayment of benefits; reduction in benefits.

8) The West Virginia Income Maintenance Manual, Chapter 8.2 (Exhibit D-10), states:

To be eligible to receive benefits, the client must meet the eligibility requirement of residence.

The client must live within the borders of West Virginia. Intent to remain permanently in West Virginia is not a requirement, although the client must reside in the State for purposes other than vacation. A time limit cannot be set for how long the client must live in West Virginia. The client cannot be required to maintain a permanent or fixed dwelling.

An individual remains a resident of the former state until he arrives in West Virginia with the intention of remaining indefinitely.

9) The West Virginia Income Maintenance Manual, Chapter 9.1.A.2.h, states:

h. Intentional Program Violation (IPV)

Persons who have been found guilty of an IPV are disqualified as follows:

- 1st offense: 1 year
- 2nd offense: 2 years
- 3rd offense: Permanent

10) The West Virginia Income Maintenance Manual, Chapter 20.2 (Exhibit D-9), states:

IPV's include making false or misleading statements, misrepresentations, concealing or withholding information, and committing any act that violates the Food Stamp Act of 1977, Food

Stamp regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of Food Stamps.

11) The West Virginia Income Maintenance Manual, Chapter 20.6.A (Exhibit D-10), 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 . . . [I]t is not essential that an affirmative representation be made. Misrepresentation may also be the suppression of what is true, as well as in the representation of what is false.

#### **VIII. CONCLUSION OF LAW:**

The Department has established that the Defendant intentionally failed to report that he was a resident of [REDACTED] during a SNAP application on November 9, 2009 and a benefits review on April 2, 2010.

#### **IX. DECISION:**

Withholding information concerning an assistance group's state of residence during a SNAP application is a clear violation of the regulations. Based on the evidence presented, I find the violations intentional.

The Agency's proposal to apply a SNAP disqualification is **upheld**. The Defendant will be disqualified from participation in SNAP, or the Food Stamp program, for a period of twelve (12) months to begin effective January 1, 2011.

#### **X. RIGHT OF APPEAL:**

See Attachment

#### **XI. ATTACHMENTS:**

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 8th Day of December, 2010.**

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