



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Earl Ray Tomblin
Governor

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

August 10, 2011

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held July 15, 2011 for the purpose of determining whether or not an Intentional Program Violation occurred.

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 the Supplemental Nutrition Assistance Program (SNAP) is based on current policy and regulations. These regulations provide that 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 § 20.2 C(2) and 7 CFR Section 273.16 (c)].

The information submitted at your hearing revealed that you misrepresented your household composition at your January 2011 SNAP application.

It is the decision of the State Hearings Officer to **Uphold** the proposal of the Department to impose an Intentional Program Violation against you effective September 2011.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

cc: Chairman, Board of Review
Christine Allen, Repayment Investigator

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

IN RE: -----,

Defendant,

v.

ACTION NO.: 11-BOR-1247

**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 July 15, 2011 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.

II. PROGRAM PURPOSE:

The program entitled Supplemental Nutrition Assistance Program (SNAP) is administered by the West Virginia Department of Health and 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

Christine Allen, Repayment Investigator
Tammi Cooley, Front End Fraud 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. QUESTION TO BE DECIDED:

The question to be decided is whether or not Defendant committed an Intentional Program Violation.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 1.2 E and 9.1 A
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
- D-3 SNAP Issuance History Screen (IQFS) from RAPIDS Computer System
- D-4 SNAP Allotment Determination Screen (EFAD) from RAPIDS Computer System
- D-5 SNAP Claim Calculation Sheet
- D-6 Case Members History Screen (AQCM) from RAPIDS Computer System
- D-7 Case Comments (CMCC) from RAPIDS Computer System
- D-8 Combined Application and Review Form dated January 18, 2011
- D-9 Rights and Responsibilities dated January 18, 2011
- D-10 Notification Letter dated January 19, 2011
- D-11 Statements from -----and -----
- D-12 Emergency Low Income Energy Assistance Program Application dated March 1, 2011
- D-13 Front End Fraud Unit Investigative Findings dated March 9, 2011
- D-14 Landlord Verification dated March 5, 2011
- D-15 Statement from -----dated March 2, 2011
- D-16 Absent Parent Address Screen (APAD) from OSCAR Computer System
- D-17 Employer Verification from Tabor Machine Company dated April 28, 2011
- D-18 Notification of Overpayment dated May 5, 2011
- D-19 Notification of Intent to Disqualify dated May 5, 2011
- D-20 WV Income Maintenance Manual § 1.2 E
- D-21 WV Income Maintenance Manual § 9.1 A
- D-22 WV Income Maintenance Manual § 20
- D-23 Code of Federal Regulations – 7 CFR §273.16

Defendant's Exhibits:

Defendant 1 Statements from -----, ----- and ----- [REDACTED]

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' Repayment Investigator, Christine Allen on June 7, 2011. The Department contends that Defendant has committed an Intentional Program Violation (IPV) and is recommending that she be disqualified from participation in SNAP for 12 months.
- 2) Defendant applied for SNAP on January 18, 2011. She reported her household consisted of herself and her two (2) daughters. Defendant reported receiving \$450 a month in child support her husband, -----and \$150 a month from her father, -----(D-7 and D-11). SNAP benefits were approved based on the information provided.
- 3) Defendant applied for the Emergency Low Income Energy Assistance Program (LEIAP) on March 1, 2011. Defendant listed herself and her daughters on the application but did not list any income for the household (D-12).
- 4) On March 9, 2011 the Front End Fraud Unit (FEFU) completed an investigation regarding Defendant's household composition. Tammi Cooley, FEFU Investigator found that Defendant's husband and father of her daughters had been residing in her home since November 2010.

Ms. Cooley verified that -----used Defendant's address with his employer, [REDACTED] Company and for his child support case for a child from a previous relationship (D-16 and D-17).

- 5) Ms. Cooley presented verification from Defendant's landlord, [REDACTED] dated March 5, 2011 stating that Defendant and -----have resided at [REDACTED] Mobile Home Park with their two (2) children since September 2010 (D-14).

Ms. Cooley obtained a statement from Defendant's neighbor dated March 2, 2011 which reads in pertinent part (D-15):

I am -----and have lived here at this address since July 2010. Across the street from me are -----and his wife. They have two children that live there also. My husband, -----, knows ----- very well because they grew up in [REDACTED] together. - ----- works somewhere associated with the mines making equipment. They moved in around 3 or 4 months ago – somewhere around there. I see them there almost every day – I see him leave for work most mornings.

- 6) Ms. Cooley stated she attempted field work on this case at [REDACTED] Mobile Home Park in February 2011 and found -----at Defendant's home. Ms. Cooley testified that -----and his income were added to Defendant's SNAP case upon completion of her

investigation and Defendant did not grieve the reduction in her SNAP benefits nor question the reason for the reduction.

The Department contends Defendant reported false information regarding her household composition at her January 2011 SNAP application. The result of Defendant failing to report her husband as residing in her home was an overpayment of SNAP of \$1781 issued for which she was not entitled to receive.

- 7) Defendant testified that her husband moved out on January 15, 2011. She stated ----- visits their children every evening after work from about 5 pm to 8 pm, but stated he does not spend the night. Defendant stated her husband still uses her address to receive mail. Defendant stated -----lives in an apartment and does not live with her.
- 8) Defendant presented statements to verify her household composition which read (Defendant 1):

I -----has [sic] lived at -----since Jan. 15 and I also pay \$150 a month to [Defendant] plus purchase anything the kids may need if I can.

I [-----] have lived beside [Grievant] since Nov. 2010 and she and her daughters has [sic] lived alone. ----- comes by to see the children but doesn't stay.

-----rents a 3rd floor apt. from me [-----]. He pays \$300.00 a month. He has lived there since Jan. 15 to present.

Defendant testified that she did not contest the reduction in her SNAP benefits because she did not read the notification letter thoroughly.

- 9) 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

- 10) WV Income Maintenance Manual § 9.1 A(2)h states:

Persons who have been found guilty of an Intentional Program Violation (IPV) are disqualified [from SNAP] as follows:

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

11) WV Income Maintenance Manual § 9.1 A (1-2) states:

The SNAP AG must include all eligible individuals who both live together and purchase and prepare their meals together.

When an individual, who is included in an AG, is absent or is expected to be absent from the home for a full calendar month, he is no longer eligible to be included in the AG, and must be removed after proper notice.

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

- Spouses are individuals who are married to each other under state law
- 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.

12) 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 [SNAP] 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) The Department provided verification from Defendant's landlord that Defendant and her husband have resided together from September 2010 through April 2011. A

statement from a line-of-sight neighbor verified -----[REDACTED] presence as a household member months prior to Defendant's January 2011 SNAP application through March 2011.

- 3) The statement provided by Defendant from -----attesting that he does not reside in her household does not match the handwriting and signature of the statement Defendant provided at her January 2011 SNAP application to verify her child support income (D-11 and Defendant 1). The fact that Defendant provided a forged or falsified statement either at her SNAP application or for the hearing diminishes her credibility and the credibility of the two (2) other statements provided.
- 4) Defendant has made inconsistent statements to the Department regarding her household's circumstances. At her SNAP application, Defendant reported her rent as \$390 monthly. Her landlord verified Defendant's rent as \$150 monthly (D-7, D-8 and D-15). Defendant failed to report any income on her March 2011 Emergency LIEAP application, but reported child support of \$450 monthly and \$100 monthly from her father at her SNAP application and only \$150 monthly in child support according to the statement provided at the hearing.
- 4) Based on the documentation provided, the Department established Defendant's husband as a member of her household prior to her SNAP application and while receiving SNAP benefits. Policy holds legal spouses must be included in the same SNAP assistance group and the result of Defendant's willful misrepresentation of her household composition was an overpayment of SNAP benefits for which she was not entitled to receive.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to impose an Intentional Program Violation against Defendant effective September 2011.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 10th day of August 2011.

Kristi Logan
State Hearing Officer