



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

September 14, 2011

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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 July 27, 2011 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 household income 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 October 1, 2011.

Sincerely,

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

cc: Erika Young, Chairman, Board of Review  
Vickie Adkins, Repayment Investigator

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

**IN RE:** -----,

**Defendant,**

v.

**ACTION NO.: 11-BOR-1318**

**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 September 14, 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. The hearing was convened on July 27, 2011, at the [REDACTED] County Courthouse in [REDACTED] WV.

**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

-----, Defendant's Witness

Vickie Adkins, 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 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.E, Chapter 10.3.DD, Chapter 20.1 and 20.2

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

**Department's Exhibits:**

- M-1 ES-FS-5, SNAP Claim Determination sheet.
- M-2 Copy of Combined Application and Rights and Responsibilities forms dated and signed by Defendant on September 9, 2005, March 7, 2006 and September 15, 2006.
- M-3 Copy of Income Maintenance Manual Chapter 1.2.E showing customer responsibility for providing accurate information; copy of Income Maintenance Manual Chapter 2.2. B showing SNAP recipient information reporting requirements; copy of Income Maintenance Manual Chapter 9.1.A.1.b(2) showing which individuals in a household must be included in a SNAP assistance group; copy of Income Maintenance Manual Chapter 9.21.A.1 showing who must be included in a SNAP assistance group; copy of Income Maintenance Manual Chapter 10.3.DD showing that wages must be counted as earned income in a SNAP assistance group; copy of Income Maintenance Manual Chapter 20.2 showing SNAP benefit claims and repayment procedures; copy of Income Maintenance Manual Chapter 20.6.A showing definitions of Welfare Fraud.
- M-4 CMCC Screen Print from RAPIDS showing case comments made on April 11, 2005, April 12, 2005, June 17, 2005, June 30, 2005, September 9, 2005, December 14, 2005, December 15, 2005, March 8, 2006, July 5, 2006, July 19, 2006, September 27, 2006, October 3, 2006, November 13, 2006, November 15, 2006, November 20, 2006, November 22, 2006, November 27, 2006, and February 22, 2008.
- M-5 Copy of Marriage Certificate for Defendant and spouse.
- M-6 Yearly earnings report for Defendant's spouse for 2006, from [REDACTED] LLC, [REDACTED] WV.

## VII. FINDINGS OF FACT:

- 1) The Department is alleging an act of Intentional Program Violation, or IPV, in the Defendant's SNAP case because she allegedly reported during SNAP application and redetermination interviews that the only individuals in her SNAP assistance group (AG) were herself and her children, when she lived with her spouse who worked and received earned income.
- 2) Department's representative Vickie Adkins, the Repayment Investigator who investigated this case, submitted into evidence case recordings from Defendant's case record (Exhibit M-4) indicating that on September 9, 2005, Defendant completed a SNAP benefits review at the ██████████ County office of the WV DHHR. At this review, she reported that her SNAP assistance group (AG) consisted of herself and her daughter. She reported that she paid no shelter or utility costs and there was no income in her SNAP AG. At the conclusion of the review, Defendant signed and dated a DFA-RFA-1, an application form which contained information she had given the worker during the interview, including the information that her SNAP assistance group consisted only of herself and her daughter. She also signed and dated a DFA-RR-1, a Rights and Responsibilities form. The application form signature page states:

I understand my responsibility to provide complete and truthful information. I have reviewed or had read to me the information contained in this automated portion of the application form and I understand the information. I understand that it is a criminal violation of federal and state law to provide false or misleading information for the purpose of receiving benefits to which I am not by law entitled. Under penalty of perjury, I certify that the statements are true and correct.

The DFA-RR-1, Rights and Responsibilities form is a list of applicants' rights and responsibilities for each program for which an applicant applies. The applicant signifies that he or she is aware of each right or responsibility by checking "Yes" or "No" at each item. Under the SNAP Program section of the form, item #4 states:

I understand if I am found (by court action or administrative disqualification hearing) to have committed an act of intentional program violation, I will not receive SNAP benefits as follows: First Offense – one year; Second Offense – two years; Third Offense – permanently. In addition, I will have to repay any benefits received for which I was not eligible.

Defendant has marked "Yes" at this item.

- 3) Department's representative submitted evidence that on March 7, 2006 and on September 15, 2006, Defendant returned to the ██████████ County office of the WV DHHR and completed benefits reviews reporting that her SNAP AG consisted of herself and two children because she had a baby in October, 2005. She listed herself under her maiden

name and reported her marital status as “Single – Never Married.” She signed DFA-RFA-1s and DFA-RR-1s on both of these occasions. (Exhibit M-2.)

- 4) Department’s representative submitted into evidence a marriage certificate indicating that Defendant and her spouse were married on December 22, 2005. (Exhibit M-5.) Department’s representative submitted into evidence an earnings statement from spouse’s employer indicating he earned \$13,348 in 2006.
- 5) Department’s representative submitted into evidence a Food Stamp [SNAP] Claim Determination form, wherein she calculated Defendant was overpaid SNAP benefits from December 2005 to December 2006 and that the amount of the overpayment was \$2927. (Exhibit M-1.)
- 6) Defendant testified that she lived in the home of her spouse’s mother from September, 2005 through December, 2006. She testified that her spouse was the father of her second child, and that she and her spouse were married in December of 2005 after her child was born. She testified that during this period of time (late 2005 through December 2006), her spouse was working in ████████ WV which is approximately 30 miles from her home. She stated that he had an apartment in ████████ WV and came home on the weekends.
- 7) The Code of Federal Regulations, 7 CFR §273.16(c) 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 [SNAP] 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).

- 8) The West Virginia Income Maintenance Manual, Chapter 1.2.E (Exhibit M-3) 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.

- 9) The West Virginia Income Maintenance Manual, Chapter 20.2.C.2 (Exhibit M-3) states:

Intentional Program Violations or IPVs 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 [SNAP] regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of SNAP benefits.

10) The West Virginia Income Maintenance Manual, Chapter 20.6.A (Exhibit M-3) 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. CONCLUSIONS OF LAW:**

- 1) There is no question that the Defendant was married in December, 2005. There is no question that Defendant's spouse had earned income during the period of time from December 2005 to December 2006.
- 2) The Department submitted evidence to indicate that Defendant reported her marital status as single and did not report her spouse's earnings.
- 3) This Hearings Examiner is not clearly convinced by Defendant's assertion that her husband maintained a separate residence in [REDACTED] WV in order to work at a job that was only 30 miles away from his home.
- 4) The Department has established that the Defendant made willful (or intentional) false statements to the effect that her SNAP assistance group consisted of herself and her children and there was no income in the assistance group, on benefits reviews conducted on March 7, 2006, and September 15, 2006.

### **IX. DECISION:**

Falsely reporting, during a SNAP application or review, that one's assistance group consists of an applicant and children, when in fact a spouse is living in the home and working, is a clear violation of the regulations. Based on the evidence presented, I find the violation intentional.

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

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 14<sup>th</sup> Day of September, 2011.**

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**Stephen M. Baisden  
State Hearing Officer**