



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

September 26, 2011

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held September 14, 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 made a false statement at your January 2011 SNAP application by reporting your son, ----- French, as residing in your household when he had been residing with his father since May 2010.

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 November 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-1605**

**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.

**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:**

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 phone.

**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 Front End Fraud Unit Investigative Findings Report dated June 6, 2011
- D-9 Statement from [REDACTED] dated June 2, 2011
- D-10 [REDACTED] County Family Court Order dated November 23, 2010
- D-11 Statement from ----- dated July 20, 2011
- D-12 Report Card from [REDACTED] Elementary School
- D-13 Combined Application and Review Form dated January 10, 2011
- D-14 Rights and Responsibilities Form dated January 10, 2011
- D-15 Notification Letter dated January 11, 2011
- D-16 Overpayment Notification Letter dated July 15, 2011
- D-17 Notification of Intent to Disqualify dated July 15, 2011
- D-18 WV Income Maintenance Manual § 1.2
- D-19 WV Income Maintenance Manual § 9.1 A
- D-20 WV Income Maintenance Manual § 20
- D-21 Code of Federal Regulations – 7 CFR §273.16

**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 July 29, 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 was notified of the hearing by letter mailed by this Hearing Officer on August 5, 2011. Defendant failed to appear for the hearing and did not provide good cause for her failure to do so. In accordance with 7 CFR §273.16(e)(4) and Common Chapters Manual §740.20, the hearing was held in Defendant's absence.

3) Defendant applied for SNAP on January 10, 2011. She reported her household consisted of herself and her three (3) children: ----, ----and ----. SNAP benefits were approved based on the information provided (D-7 and D- 13).

4) A referral was made to the Front End Fraud Unit (FEFU) to verify Defendant's household composition. FEFU obtained a [REDACTED] County Family Court Order dated November 23, 2010 that awarded custody of ---- to his father ----. The court order noted ---- had been residing with his father since May 2010, at which time Defendant was not granted visitation of ---- (D-10).

FEFU received a statement from ---- on July 20, 2011 verifying that ---- lived with him since May 2010. ----also provided ----'s report card from [REDACTED] Elementary School in [REDACTED] County for the spring semester of 2010 where he had attended school (D-11 and D-12).

5) The Department contends Defendant misrepresented her household composition at her January 2011 SNAP review by reporting ----as a household member when he had been residing with his father since May 2010. The result of the misrepresentation was an overpayment of SNAP of \$479 (D-2 and D-5).

6) 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

7) 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

8) 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.

9) 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) Defendant made a false statement at her January 2011 SNAP application by reporting -- ---as residing in her household when he had been residing with his father since May 2010. The result of Defendant's misrepresentation of her household composition resulted in 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 November 2011.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 26<sup>th</sup> day of September 2011.**

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**Kristi Logan  
State Hearing Officer**