



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241**

**Earl Ray Tomblin
Governor**

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

November 9, 2011

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 November 8, 2011 to determine whether you committed an Intentional Program Violation (IPV).

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.

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, SNAP Regulations, or any State statute relating to the use presentation, transfer, acquisition, receipt or possession of SNAP benefits. 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 Section 20.2 and Code of Federal Regulations-7 CFR Section 273.16)

Documentation and testimony submitted at the hearing reveals that you intentionally provided inaccurate information about your household composition during your March 2011 SNAP application.

It is the decision of the State Hearing Officer that you committed an Intentional Program Violation and a one-year disqualification penalty will be applied.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Tammy Hollandsworth, Repayment Investigator, DHHR

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

IN RE: -----,

Defendant,

v.

ACTION NO.: 11-BOR-1855

**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 for ----- . This hearing was conducted telephonically on November 8, 2011 in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources (WVDHHR).

All persons giving testimony were placed under oath.

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 an EBT card to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

III. PARTICIPANTS:

-----, Defendant

Tammy Hollandsworth, State Repayment Investigator, WVDHHR

Presiding at the hearing was Pamela L. Hinzman, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Defendant committed an Intentional Program Violation and should be disqualified from participation in the Supplemental Nutrition Assistance Program for a period of one (1) year.

V. APPLICABLE POLICY:

7 CFR Section 273.16 USDA Code of Federal Regulations

WVDHHR Common Chapters Manual Section 740.11.D

West Virginia Income Maintenance Manual Sections 1.2.E, 20.1 and 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Food Stamp Claim Determination form for March 2011 and April 2011
- D-3 Food Stamp Calculation Sheets for March 2011 and April 2011
- D-4 SNAP Issuance History- Disbursement
- D-5 Food Stamp Allotment Determination for March 2011 and April 2011
- D-6 Case Member History information
- D-7 Case Comments dated March 24, 2011, March 31, 2011 and May 9, 2011
- D-8 Combined Application and Review form with Rights and Responsibilities signed by Defendant on March 23, 2011
- D-9 Food Stamp issuance history information from State of [REDACTED] for -----
- D-10 Copy of Power of Attorney for -----
- D-11 Copy of August 4, 2011 letter to Defendant from Tammy Hollandsworth
- D-12 West Virginia Income Maintenance Manual Section 1.2.E
- D-13 West Virginia Income Maintenance Manual Sections 20.1 and 20.2
- D-14 West Virginia Income Maintenance Manual Section 20.6
- D-15 Code of Federal Regulations Section 273.16

VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from State Repayment Investigator Tammy Hollandsworth on September 6, 2011. The Repayment Investigator contends that the Defendant committed an Intentional Program Violation and recommends that the Defendant be disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, for a period of one (1) year.
- 2) A Hearing Summary submitted by the Department (D-1) indicates that the Defendant completed a SNAP application on March 23, 2011, signing a Combined Application and Review Form with associated Rights and Responsibilities (D-8). The Defendant's signature is located on Page 12 of the application and on Page 9 of the Rights and Responsibilities, attesting that she had provided complete and truthful information to the Department.

During the application process, the Defendant reported that four people resided in the household, including herself, her co-habitor ----, their son ----, and her son ----.

- 3) The Repayment Investigator contended that ---- was not residing with the Defendant at the time of application, and had been living with his grandmother, ----, in [REDACTED] since January 2011. She provided Exhibit D-9, SNAP issuance information from the State of [REDACTED] to verify that [REDACTED] received SNAP benefits in his grandmother's case for the period of February 2011 through April 2011. In addition, the Repayment Investigator provided Exhibit D-10, a Power of Attorney order dated January 19, 2011 from [REDACTED] County, [REDACTED] appointing ---- as ---- attorney-in-fact.
- 4) The Repayment Investigator testified that failure to report accurate household composition resulted in a \$186 loss to the SNAP for the period of March 23, 2011 through April 30, 2011, as indicated on a Food Stamp Claim Determination form (D-2) and Food Stamp Calculation Sheets (D-3). SNAP Issuance History and Food Stamp Allotment Determination information was provided to verify the amount of benefits issued (D-4 and D-5).
- 5) The Defendant testified that she did not intentionally report inaccurate information, but had gone to Ohio to retrieve her son the weekend after she applied for SNAP benefits. She testified that she was unable to locate her mother and the child on that weekend, and that law enforcement officials could not assist her because she had granted her mother power of attorney for the child. The Defendant stated that she later attempted to retrieve her son in May and June 2011, however, her mother had since filed for emergency custody of the child.
- 6) West Virginia Income Maintenance Manual Section 1.2.E (D-12) states that the client's responsibility is to provide information about his/her circumstances so the worker is able to make a correct decision about his/her eligibility.
- 7) West Virginia Income Maintenance Manual Section 20.2 (D-13):

When an AG (Assistance Group) has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation or Intentional Program Violation claim. The claim is the difference between the allotment the client received and the allotment he should have received.

8) West Virginia Income Maintenance Manual Section 20.2.C, 2 (D-13):

IPV's [*sic*] include making false or misleading statements, misrepresentations, concealing or withholding information, and committing any act that violates the Food Stamp Act of 1977, SNAP regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of SNAP benefits...

Once an IPV (Intentional Program Violation) is established a disqualification penalty is imposed on the AG (Assistance Group) members who committed the IPV...

The penalties are as follows: (Section 9.1A, 2, h) 1st Offense: 1 year (Disqualification).

- 9) WVDHHR Common Chapters Manual Section 740.11.D provides that 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 Act, the Food Stamp Program Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt or possession of Food Stamp benefits.

VIII. CONCLUSIONS OF LAW:

- 1) Policy states that when an Assistance Group has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation or Intentional Program Violation claim. If it is determined that an Intentional Program Violation has been committed, an appropriate disqualification penalty is imposed.
- 2) The Defendant provided false and misleading information about her household composition, as her son Austin was not residing in her household at the time of her SNAP application. This action resulted in a SNAP over issuance of \$186 for March 2011 through April 2011.

Therefore, the Department is correct in its proposal to impose an Intentional Program Violation.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's proposal to impose an Intentional Program Violation penalty. The penalty period will begin in December 2011. Only the Defendant is subject to the disqualification penalty.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 9th Day of November, 2011.

**Pamela L. Hinzman
State Hearing Officer**