



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

January 5, 2011

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 10, 2010 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 falsely reported your household's only income as Social Security and Child Support at your SNAP application in March 2010 when in fact you had been receiving rental income since August 2009.

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 February 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 & HUMAN RESOURCES  
BOARD OF REVIEW**

-----,

**Defendant,**

**v.**

**Action Number: 10-BOR-2184**

**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 10, 2010 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 & 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 videoconference.

**IV. QUESTION TO BE DECIDED:**

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

**V. APPLICABLE POLICY:**

WV Income Maintenance Manual § 1.2 E, 9.1 A, and 10.3 PPP  
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 Form
- D-3 SNAP Claim Calculation Sheet
- D-4 SNAP Issuance History Screen (IQFS) from RAPIDS Computer System
- D-5 SNAP Allotment Determination Screen (EFAD) from RAPIDS Computer System
- D-6 Case Members History Screen (AQCM) from RAPIDS Computer System
- D-7 Case Comments (CMCC) from RAPIDS Computer System
- D-8 Statement from Defendant dated April 23, 2010
- D-9 Combined Application Form and Rights and Responsibilities Form dated March 25, 2010
- D-10 Notification of Intent to Disqualify dated June 24, 2010
- D-11 Waiver of Administrative Disqualification Hearing
- D-12 Dismissal Order dated September 9, 2010
- D-13 WV Income Maintenance Manual § 1.2 E
- D-14 WV Income Maintenance Manual § 20.1 and 20.2
- D-15 WV Income Maintenance Manual § 20.6
- D-16 Code of Federal Regulations – 7 CFR §273.16

**Defendant's Exhibits:**

None

**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 November 9, 2010. The Department contends that Defendant has committed an Intentional Program Violation (IPV) and is recommending that he be disqualified from participation in SNAP for 12 months.
- 2) Defendant was notified of the hearing by letter sent by this Hearing Officer on November 10, 2010. Defendant failed to appear at the hearing or provide good cause for

his 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 benefits on March 25, 2010. Defendant reported his household's income as Social Security and Child Support for his step-children. No other income was reported during the application and SNAP benefits were approved (D-1 and D-7).

4) On April 27, 2010, -----reported to his caseworker that he had been living with Defendant since August 2009 and paying rent to Defendant of \$350 monthly (D-1 and D-7). ----- provided to his caseworker a statement from Defendant dated April 23, 2010 which read (D-8):

I ----- hereby notify [sic] as of May 3, 2010 ----- has paid rent \$350 monthly but on May 3<sup>rd</sup> he has to leave.

5) The Department contends Defendant had been receiving rental income since August 2009, as reported by -----and Defendant intentionally withheld this information at his SNAP application in March 2010. The result was an overpayment of SNAP benefits of \$146 (D-2 and D-3).

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 § 10.3 PPP states:

Rental Income: Counts as unearned, self-employment income

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) The information submitted indicated Defendant had been receiving rental income of \$350 a month since August 2009. Defendant made a false statement at his SNAP application in March 2010 by reporting his household's only income as Social Security and Child Support. The result of Defendant's misrepresentation was an overpayment of SNAP benefits issued for which Defendant 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 February 2011.

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

See Attachment

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

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 5<sup>th</sup> day of January 2011.**

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**Kristi Logan  
State Hearing Officer  
Member, Board of Review**