



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

March 2, 2011

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 13, 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 October 2009 SNAP review by reporting your children as living in your household when in fact they had not been in your custody since February 2008.

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 April 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-2220**

**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 January 13, 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 & 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 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 Form
- 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 ██████████ County Circuit Court Order dated February 26, 2008
- D-9 Recommendation to ██████████ County Circuit Court dated September 24, 2009
- D-10 Placement Screen from FACTS Computer System
- D-11 SNAP 24-Month Review Form dated October 21, 2009
- D-12 Qualified Child Renewal Application Form dated October 21, 2009
- D-13 Low Income Energy Assistance Program (LIEAP) Application dated October 21, 2009
- D-14 Qualified Child Renewal Application Form dated May 5, 2010
- D-15 School Clothing Allowance (SCA) Application dated July 20, 2010
- D-16 Notification Letter dated October 26, 2009
- D-17 Repayment Notification Letter dated September 21, 2010
- D-18 Notification of Intent to Disqualify dated September 21, 2010
- D-19 WV Income Maintenance Manual § 1.2 E
- D-20 WV Income Maintenance Manual § 9.1 A
- D-21 WV Income Maintenance Manual § 20
- D-22 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 18, 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 December 8, 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's five (5) children were removed from his custody and placed in foster care in February 2008. Defendant reported his son -----had returned home in November 2008 and his son ----- returned home in March 2009. On July 28, 2009 Defendant reported that his three (3) other children, -----, -----and -----had also returned home (D-1 and D-1). The children were added to Defendant's ongoing SNAP benefits.
- 4) On October 21, 2009, Defendant submitted a Low Income Energy Assistance Program (LIEAP) application, SNAP 24-Month Review Form and Qualified Child Renewal Application to the local office. Defendant reported all five (5) of his children as residing in his household (D-11, D-12 and D-13). Defendant submitted another Qualified Child Renewal Application to the local office on May 6, 2010. Again, Defendant reported all five (5) children in the household (D-14).
- 5) Defendant applied for School Clothing Allowance (SCA) for his children on July 20, 2010. Defendant's caseworker verified with Child Protective Services that -----, ----- and ----- were still in foster care and had never been returned to Defendant since their removal in 2008 (D-7, D-8 and D-9).
- 6) The Department contends Defendant made a false statement at his SNAP review in October 2009 by reporting -----, ----- and ----- in his home. The result of the misrepresentation was an overpayment of SNAP benefits of \$3321 (D-2 and D-5).
- 7) 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

- 8) WV Income Maintenance Manual § 9.1 A 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 false statements to the Department regarding his household composition by reporting -----, ----- and ----- as living in his home when they had not been returned to his custody since their removal in February 2008. The result of the willful 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 April 2011.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 2<sup>nd</sup> day of March 2011**

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