



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General

Earl Ray Tomblin  
Governor

Board of Review  
1400 Virginia Street  
Oak Hill, WV 25901

Rocco S. Fucillo  
Cabinet Secretary

October 12, 2012

-----  
-----  
-----

Dear Ms. ----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your Administrative Disqualification Hearing held October 11, 2012 for the purpose of determining whether or not an Intentional Program Violation was committed.

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.

Eligibility for the Supplemental Nutrition Assistance Program (SNAP) is based on current policy and regulations. These regulations state 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 failed to establish that you committed an Intentional Program Violation.

It is the decision of the State Hearing Officer to **reverse** the proposal of the Department to impose an Intentional Program Violation against you.

Sincerely,

Kristi Logan  
State Hearing 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.: 12-BOR-2033**

**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 held on October 11, 2012. This hearing was held in accordance with the provisions found in the West Virginia Department of Health and Human Resources Common Chapters Manual, Chapter 700.

**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 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:**

----, Defendant  
Christine Allen, Repayment Investigator

Presiding at the hearing was Kristi Logan, State Hearing Officer and a member of the Board of Review.

#### **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 Combined Application and Review Form dated January 17, 2012
- D-9 Rights and Responsibilities Form dated January 17, 2012
- D-10 Notification Letter dated January 18, 2012
- D-11 Low Income Energy Assistance Program (LIEAP) Application dated January 17, 2012
- D-12 Benefit Verification from Social Security Administration dated August 24, 2012
- D-13 Overpayment Notification Letter dated August 9, 2012
- D-14 Notification of Intent to Disqualify dated August 9, 2012
- D-15 WV Income Maintenance Manual § 1.2 E
- D-16 WV Income Maintenance Manual § 10.3 UUU
- D-17 WV Income Maintenance Manual § 20
- D-18 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 August 24, 2012. 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 applied for SNAP benefits on January 17, 2012 (D-8). She reported to her caseworker that her household had no income (D-7). SNAP benefits were approved based on the information provided.

Defendant also submitted an application for LIEAP on January 17, 2012 (D-11), which listed no income for the household.

- 3) Defendant reapplied for SNAP benefits on July 9, 2012 (D-7). After searching the data exchange computer system, Defendant's caseworker discovered that Defendant's son, -- -- ----, had been receiving Social Security Survivors' benefits since September 2011 (D-12).
- 4) The Department contends Defendant made a false statement at her SNAP application in January 2012 by reporting no income for her household, when her son was receiving Social Security benefits. The result of Defendant's failure to report her son's income was an overpayment of SNAP benefits of \$1552 (D-2 and D-5).
- 5) Defendant testified she applied for SNAP benefits in January 2012 after she had lost her job. Defendant stated at her SNAP application, she reported to her caseworker that she anticipated receiving Unemployment Compensation Income (UCI) and reported her son's income as well. Defendant was adamant that she reported the Social Security income at the SNAP application, saying that not only would she never lie to the Department, but would not report the UCI income and not the Social Security income.

When questioned about failing to list any income on her January 2012 LIEAP application (D-11), Defendant stated she was unsure how to complete the application form and had only listed herself. Defendant stated someone else had written in her son's name of the LIEAP form as it was not in her handwriting.

Defendant testified her son has previously received Children's Health Insurance Program (CHIP) benefits, and his income was listed on those approval letters. Defendant stated she did not notice any income being counted for her SNAP benefits in the SNAP approval letter (D-10).

- 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) 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 Food Stamp Act, the SNAP 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) Credible testimony from Defendant held that she reported her son's Social Security income at her January 2012 SNAP application, along with anticipated Unemployment Compensation Income. The Department failed to establish by clear and convincing evidence that Defendant intentionally withheld information regarding her son's income.

#### **IX. DECISION:**

It is the decision of the State Hearing Officer to **reverse** the proposal of the Department to impose an Intentional Program Violation against Defendant.

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

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 12<sup>th</sup> day of October 2012**

---

**Kristi Logan**  
**State Hearing Officer**