



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 17, 2012

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held December 16, 2011 for the purpose of determining whether or not an Intentional Program Violation occurred.

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 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 concealed information regarding your SNAP case in [REDACTED] from the Department in order to receive multiple SNAP benefits in both states.

It is the decision of the State Hearing Officer to **Uphold** the proposal of the Department to impose an Intentional Program Violation against you for 12 months effective March 2012.

Sincerely,

Kristi Logan  
State Hearing Officer  
Member, State Board of Review

cc: Chairman, Board of Review  
Rusty Udy, Repayment Investigator

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

**IN RE:**       -----,

**Defendant**

**v.**

**ACTION NO.: 11-BOR-2303**

**WEST VIRGINIA DEPARTMENT OF  
HEALTH AND HUMAN RESOURCES**

**Movants**

**DECISION OF STATE HEARING OFFICER**

**I.     INTRODUCTION:**

This is a report of the State Hearing Officer resulting from a fair hearing concluded on December 16, 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:**

Rusty Udy, 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, 8.6 A 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 Issuance History Screen (IQFS) from RAPIDS Computer System
- D-3 SNAP Allotment Determination Screen (EFAD) from RAPIDS Computer System
- D-4 Case Members History Screen (AQCM) from RAPIDS Computer System
- D-5 Case Comments (CMCC) dated August 16, 2011 from RAPIDS Computer System
- D-6 Correspondence from [REDACTED] Department of Social Services dated September 16, 2011
- D-7 Electronic Benefit Transfer Transaction Details
- D-8 Combined Application and Review Form and Rights and Responsibilities Form dated August 17, 2011
- D-9 Notification of Intent to Disqualify dated November 4, 2011
- D-10 WV Income Maintenance Manual § 1.2 E
- D-11 WV Income Maintenance Manual § 20.1 and 20.2
- D-12 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, Rusty Udy on November 7, 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 sent certified mail by this Hearing Officer on November 16, 2011. The letter was signed for on November 19, 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 completed a SNAP review on September 16, 2011. Defendant reported a five (5) person assistance group with Social Security as the household's only income. Defendant also reported an increase in her rent amount. SNAP benefits were recertified based on the information provided (D-5 and D-8).
- 4) The Department discovered Defendant had an open SNAP case in [REDACTED] during September 2011 and October 2011. The Department verified Defendant accessed SNAP benefits from West Virginia and [REDACTED] during the aforementioned months (D-6 and D-7).

The Department contends Defendant falsely represented her household's circumstances by not reporting her SNAP benefits from [REDACTED] at her August 2011 SNAP review. The misrepresentation caused an overpayment of SNAP benefits of \$446 issued to Defendant for which she was not eligible to receive (D-2 and D-3).

- 5) 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

- 6) 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

- 7) WV Income Maintenance Manual § 8.6 A states:

A client may not receive SNAP benefits, WV WORKS or Medicaid concurrently in more than one county in West Virginia or more than one state. In addition, he may not receive different types of benefits in more than one county or state at the same time, except as specified below. The

possibility of intentional misrepresentation must be explored when it is discovered that the client is receiving benefits of any type in more than one county at the same time. In some cases involving county transfers, different types of benefits may legitimately be received in different counties due to a delay in transferring the case. The Worker must try to avoid this, but the application must not be delayed an unreasonable amount of time. There are some disqualification penalties for those who intentionally receive duplicate benefits. These vary by program, as follows.

#### **SNAP BENEFITS**

An individual, who has made a fraudulent statement or representation about his identity or place of residence in order to receive multiple SNAP benefits simultaneously, is ineligible to receive SNAP benefits for a 10-year period. The 10-year period begins on the date the client is found guilty in a federal or state court or in an ADH. This applies to multiple benefits received in more than one state or in the same state. Conviction of, or ADH finding of, attempting to receive such multiple benefits carries the same disqualification penalty as actual receipt of the benefits.

- 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 [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 intentionally withheld information regarding her SNAP benefits in South Carolina from the Department at her August 2011 SNAP review. Defendant clearly intended to receive duplicate SNAP benefits from [REDACTED] and West Virginia by not only concealing her SNAP case in [REDACTED] from the Department, but also by accessing the benefits from each state during September 2011 and October 2011.

- 3) The result of Defendant's misrepresentation was an overpayment of SNAP benefits for which she was ineligible 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 for 12 months effective March 2012.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 17<sup>th</sup> day of January 2012**

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