



**STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
203 East Third Avenue  
Williamson, WV 25661**

**Earl Ray Tomblin  
Governor**

**Karen L. Bowling  
Cabinet Secretary**

February 29, 2016

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 16-BOR-1120

Dear Mr. [REDACTED]

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

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.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Stephen M. Baisden  
State Hearing Officer  
Member, State Board of Review

Encl: Claimant's Recourse to Hearing Decision  
Form IG-BR-29

cc: Juna Woodall, Repayment Investigator

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

██████████,

**Defendant,**

**v.**

**Action Number: 16-BOR-1120**

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

**Movant.**

**DECISION OF STATE HEARING OFFICER**

**INTRODUCTION**

This is the decision of the State Hearing Officer resulting from an Administrative Disqualification Hearing for ██████████, requested by the Movant on January 20, 2016. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual and Federal Regulations at 7 CFR Section 273.16. The hearing was convened on February 25, 2016.

The matter before the Hearing Officer arises from a request by the Department for a determination as to whether the Defendant has committed an Intentional Program Violation and thus should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for twelve months.

At the hearing, the Department appeared by Juna Woodall, Repayment Investigator. The Defendant appeared *pro se*. Appearing as a witness for the Defendant was his daughter ██████████. All participants were sworn and the following documents were admitted into evidence.

**Movant's Exhibits:**

- M-1 Code of Federal Regulations §273.16
- M-2 Form ES-FS-5, Food Stamp (SNAP) Claim Determination
- M-3 SNAP benefit application form and Rights and Responsibilities form, signed by Defendant, and case recordings dated November 8, 2013
- M-4 SNAP mail-in review form, signed and dated by Defendant on February 27, 2014, and case recordings dated March 21, 2014
- M-5 Form IG-IFM-wage-verification, Letter from Department to employer of Defendant's daughter, dated December 21, 2015, completed by employer on December 29, 2015, and returned on January 4, 2016
- M-6 West Virginia Income Maintenance Manual (WV IMM) Chapter 1, §1.2.E

- M-7 WV IMM Chapter 20, §20.2
- M-8 WV IMM Chapter 20, §20.6
- M-9 Copy of IG-IFM-ADH-waiver, Waiver of Administrative Disqualification Hearing form, and IG-IFM-ADH-Ltr, Notice of Intent to Disqualify form, sent to Defendant on January 12, 2016

**Defendant's Exhibits**

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

**FINDINGS OF FACT**

- 1) The Department's representative contended the Defendant committed an Intentional Program Violation and should be disqualified from SNAP for one year because he intentionally withheld the fact that his daughter was working and receiving earned income, from November 2013 through July 2014. The Department's representative argued that because the Defendant did not report this employment information, his SNAP Assistance Group (AG) received \$1570 in benefits to which it was not entitled.
- 2) On November 8, 2013, the Defendant completed a SNAP application wherein he reported that no one in the AG was working and the only income in the AG was Social Security – Disability benefits for the Defendant and two of his children (Exhibit M-3).
- 3) On February 27, 2014, the Defendant completed a SNAP benefit mail-in review form (Exhibit M-4), again reporting no earned income in the AG. The only income reported on the review form was the Social Security – Disability income as stated above.
- 4) The Department's representative sent to the employer of the Defendant's daughter, [REDACTED] of [REDACTED], an employment data form (Exhibit M-5), asking the employer to provide certain information such as hire date and rate of pay. The employer returned the form on January 4, 2016, confirming that the Defendant's daughter had started working on November 3, 2013, and worked until July 21, 2014.

**APPLICABLE POLICY**

West Virginia Income Maintenance Manual (WV IMM) Chapter 1.2.E states that it is the client's responsibility to provide information about his/her circumstances so the worker is able to make a correct decision about his/her eligibility.

WV IMM Chapter 2.2.B reads, "All SNAP AGs [Assistance Groups] must report changes related to eligibility and benefit amount at application and redetermination."

WV IMM Chapter 20.2 states that when an AG 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.

WV IMM Chapter 20.2.C.2 provides that once an IPV (Intentional Program Violation) is established, a disqualification penalty is imposed on the AG members who committed the IPV. The penalties are as follows: First Offense – one year disqualification; Second Offense – two years disqualification; Third Offense – permanent disqualification.

Pursuant to the Code of Federal Regulations 7 CFR Section 273.16, an Intentional Program Violation shall consist of a SNAP recipient 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 for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system access device.

### **DISCUSSION**

During a SNAP application in November 2013 (Exhibit M-3), the Defendant did not report that his 18-year-old daughter was working and receiving earned income. During a SNAP review in February 2014 (Exhibit M-4), the Defendant again did not report his daughter's employment.

The Department obtained information (Exhibit M-5) from the daughter's employer confirming that she began working on November 3, 2013, and was still working in February 2014, when the Defendant completed another SNAP review.

The Defendant testified that he had been ill and "just forgot" to report this income in November 2013 and February 2014. He did not provide documentation to verify the nature and duration of his illness and the extent to which his illness impaired his cognitive functioning.

SNAP recipients are obligated to report "changes related to eligibility and benefit amount," including employment information, at reviews and redeterminations. The Department provided clear and convincing evidence that the Defendant intentionally did not report his daughter was working and receiving earned income in November 2013, and did not report this income to the Department on a SNAP benefit review in February 2014, in order to obtain more SNAP benefits than he was entitled to receive.

### **CONCLUSIONS OF LAW**

- 1) Pursuant to the Code of Federal Regulations and the Common Chapters Manual, the Defendant made a false or misleading statement, or misrepresented, concealed or withheld facts, in order to receive SNAP benefits to which he was not legally entitled.

- 2) The Department presented clear and convincing evidence that the Defendant committed an Intentional Program Violation by not reporting his daughter was working and receiving earned income during the period of November 2013 through July 2014, in violation of WV IMM §1.2.E. The Department must impose a disqualification penalty.
- 3) The disqualification for a first offense IPV is one year.

### **DECISION**

It is the ruling of the Hearing Officer that the Defendant committed an Intentional Program Violation. He will be disqualified from participating in SNAP for one year, beginning April 1, 2016.

**ENTERED this 29<sup>th</sup> Day of February 2016.**

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**Stephen M. Baisden  
State Hearing Officer**