



**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**

May 11, 2016



RE: [REDACTED] v. WV DHHR  
ACTION NO.: 16-BOR-1507

Dear Ms. [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: Defendant's Recourse to Hearing Decision  
Form IG-BR-29

cc: Ellis Bryson, Criminal Investigator

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

████████████████████,

**Defendant,**

**v.**

**Action Number: 16-BOR-1507**

**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 March 3, 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 May 5, 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 Ellis Bryson, Criminal Investigator. The Defendant appeared *pro se*. The participants were sworn and the following documents were admitted into evidence.

**Movant's Exhibits:**

- M-1     Hearing Summary
- M-2     Combined Application Form (CAF) and Rights and Responsibilities form, signed and dated by Defendant on March 8, 2010
- M-3     CAF and Rights and Responsibilities form, signed and dated by Defendant on August 31, 2010
- M-4     CAF and Rights and Responsibilities form, signed and dated by Defendant on March 27, 2012
- M-5     CAF and Rights and Responsibilities form, signed and dated by Defendant on November 5, 2012

- M-6 Low-Income Energy Assistance Program (LIEAP) application, signed and dated by Defendant on October 12, 2010
- M-7 Earnings verification from Equifax (The Work Number) to Department, dated February 27, 2013
- M-8 Appointment letter from Department to Defendant, dated February 22, 2013
- M-9 Copy of Defendant's WV Driver's License
- M-10 Form IG-IFM-MIR, Statement of Advice and Consent, signed by Defendant and Department's representative on March 4, 2013
- M-11 Defendant's statement to WV DHHR Criminal Investigator, dated March 4, 2013
- M-12 Letter from Department to Defendant (Advance Notice of Administrative Disqualification Hearing) dated March 3, 2016
- M-13 Waiver of Administrative Disqualification Hearing form, blank
- M-14 West Virginia Income Maintenance Manual (WV IMM) Chapter 9, §9.1.A.2.h
- M-15 Code of Federal Regulations §273.16

**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 she intentionally withheld the fact that her boyfriend, who lived with her and was a member of her SNAP assistance group (AG), was working and receiving earned income from June 2010 through February 2013. The Department's representative argued that because the Defendant did not report her boyfriend's employment information, her SNAP Assistance Group (AG) received \$6284 in benefits to which it was not entitled.
- 2) On March 8, 2010, the Defendant completed a SNAP benefit application (Exhibit M-2), wherein she reported her SNAP AG consisted of herself, her boyfriend, her son and her daughter. The Defendant's boyfriend is her daughter's father. On the Combined Application Form (CAF) she signed to complete her application, the Defendant reported that her boyfriend received no earned income.
- 3) The Defendant's boyfriend went to work at a security firm, [REDACTED], on March 25, 2010 (Exhibit M-7). He worked from that date at least until February 22, 2013.
- 4) On October 12, 2010, the Defendant applied for the Low-Income Energy Assistance Program (LIEAP). On her LIEAP application (Exhibit M-6), she reported that her household consisted of herself, her boyfriend, her son and their daughter. She reported unearned income for herself and her son, but no earned income for her boyfriend.

- 5) The Defendant completed SNAP benefit reviews on August 31, 2010 (Exhibit M-3), March 27, 2012 (Exhibit M-4) and November 5, 2012 (Exhibit M-5). During each of these reviews, the Defendant reported that her boyfriend lived in her home and that the only income in her household was the unearned income she and her son received.
- 6) As part of the Department's investigation into the Defendant's SNAP case, the Department's representative sent a letter (Exhibit M-8) to the Defendant, asking her to come to the WV DHHR, [REDACTED] County office on March 4, 2013, to discuss her possible SNAP Intentional Program Violation. On March 4, 2013, the Defendant came to the [REDACTED] Office and signed a statement (Exhibit M-11) which reads as follows in part, "I am not sure why I did not report [Boyfriend's] income. I take full responsibility. I should have known better. I agree to pay back any benefits I have been overpaid. I agree to cooperate with the DHHR to alleviate this issue."

### **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 2.2.B.1 reads, "Once approved, all AGs must report when the total gross earned and unearned income of the AG and all other individuals who reside with the AG exceeds the AG's gross income limit. This must be reported no later than the 10th calendar day of the month following the month in which the change occurs."

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 several SNAP applications and redeterminations and one LIEAP application from June 2010 to February 2013, the Defendant reported that her boyfriend, the father of one of her children, was in the home and was not working (Exhibits M-3, M-4, M-5 and M-6). During the hearing, the Defendant testified that her boyfriend was working but was not in the home.

Also during the hearing, the Defendant testified that she informed the worker who conducted the March 27, 2012, SNAP redetermination (Exhibit M-4) interview her boyfriend was working. She added that the interviewer was not her regular worker and she did not enter the employment information in the Defendant's case record. The Department's representative testified that the Defendant applied for the Low-Income Energy Assistance Program (LIEAP) on October 12, 2012 (Exhibit M-6). He stated that the Defendant completed the LIEAP application form in her own hand, and reported no earned income for her boyfriend.

The Department provided clear and convincing evidence that the Defendant did not report her boyfriend was receiving earned income from June 2010 through February 2013. The Department acted correctly to impose an Intentional Program Violation against the Defendant.

## **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 Defendant committed an Intentional Program Violation by not reporting that her boyfriend was working and receiving earned income during the period of June through September 2015, 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. She will be disqualified from participating in SNAP for one year, beginning June 1, 2016.

**ENTERED this 11<sup>th</sup> Day of May 2016.**

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**Stephen M. Baisden**  
**State Hearing Officer**