



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

Karen L. Bowling
Cabinet Secretary

May 12, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-1627

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,

Kristi Logan
State Hearing Officer
Member, State Board of Review

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

cc: Christine Allen, Repayment Investigator

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

██████████,

Defendant,

v.

Action Number: 15-BOR-1627

**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 24, 2015. 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 § 273.16. The hearing was convened on April 30, 2015.

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 should thus be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Department appeared by Christine Allen, Repayment Investigator. The witness was sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 Department's Summary
- M-2 SNAP Claim Determination
- M-3 SNAP Issuance History Screen Print
- M-4 SNAP Allotment Determination Screen Prints
- M-5 SNAP Claim Calculation Sheets
- M-6 Case Members History Screen Print
- M-7 Case Comments from August 2014 – December 2014
- M-8 Combined Application and Review Form dated August 8, 2014
- M-9 Rights and Responsibilities Form dated August 8, 2014

M-10	Notice of Decision dated August 11, 2014
M-11	Front-End Fraud Unit Investigative Findings dated December 16, 2014
M-12	██████████ Employment Compensation Wage Details
M-13	Absent Parent Employment Screen Print
M-14	Employment Verification from ██████████
M-15	Benefit Recovery Referral Screen Print
M-16	Claim Notification Letter dated February 10, 2015
M-17	Advance Notice of Administrative Disqualification Hearing Waiver dated March 10, 2015
M-18	WV Income Maintenance Manual §1.2E
M-19	WV Income Maintenance Manual §10.3EE
M-20	WV Income Maintenance Manual §20
M-21	Code of Federal Regulations – 7 CFR §273.16

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, 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 alleged that the Defendant committed an Intentional Program Violation (IPV) by falsely reporting her household income and requested that a SNAP penalty of 12 months be imposed against her.
- 2) The Defendant was notified of the hearing by scheduling order mailed on March 31, 2015. The Defendant failed to appear or provide good cause for her failure to do so. In accordance to 7 CFR §273.16(e) (4)), and West Virginia Department of Health and Human Resources' Common Chapters Manual, §740.20, the hearing was held without the Defendant in attendance.
- 3) The Defendant applied (M-8) for SNAP benefits on August 8, 2014. She reported (M-7) that her household had no income. SNAP benefits were approved based on the information provided.
- 4) The Department verified that the Defendant's husband was hired (M-14) at ██████████ ██████████ on April 28, 2014, and received regular earnings from this employment.
- 6) The Department contended that the Defendant made a false statement at her August 2014 SNAP application by reporting that she and her husband had no income. The result of the Defendant's misrepresentation of her household's income was an overpayment (M-2 and M-5) of SNAP benefits in the amount of \$1,848.

APPLICABLE POLICY

WV Income Maintenance Manual §§9.1A and 9.1B states that the SNAP Assistance Group (AG) must include all eligible individuals who both live together and purchase and prepare their meals together. The income group includes all AG members and all individuals who live with the AG.

Pursuant to the Code of Federal Regulations 7 CFR §273.16, 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 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.

West Virginia Income Maintenance Manual §1.2E reads that it is the client's responsibility to provide accurate information regarding his circumstances so that a correct decision about eligibility can be made. Failure to fulfill this obligation may result in the denial of an application, closure of an active Assistance Group (AG), removal of an individual from the AG, and/or a repayment/reduction in benefits.

West Virginia Income Maintenance Manual §20.2C(2) requires that once an IPV has been established, a disqualification period must be imposed on the AG member who committed the violation.

West Virginia Income Maintenance Manual §9.1 sets forth the penalties for individuals found guilty of an IPV as follows: First Offense, twelve (12) month disqualification; Second Offense, twenty-four (24) month disqualification; Third Offense, permanent disqualification.

DISCUSSION

The Department provided clear and convincing evidence that the Defendant made a false statement at her August 2014 SNAP application regarding her household's income by reporting no income. The Defendant's husband was employed and receiving earnings at the time of the SNAP application.

CONCLUSION OF LAW

Through the willful misrepresentation by the Defendant regarding her household's income, she received an overpayment of SNAP benefits she otherwise would not have been entitled to receive. The Defendant's actions meet the definition of an Intentional Program Violation and the applicable 12-month penalty will be applied to the Defendant.

DECISION

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation and will be excluded from participation in SNAP for 12 months, effective June 2015.

ENTERED this 12th day of May 2015

**Kristi Logan
State Hearing Officer**