



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. WVDHHR
ACTION NO.: 15-BOR-1629

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-1629

**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 Case Members History Screen Print
- M-6 Case Comments from January 2014 – December 2014
- M-7 SNAP Application dated April 1, 2014
- M-8 SNAP Review dated October 14, 2014
- M-9 Notices of Decision dated April 9, 2014, and October 17, 2014

- M-10 Notice of Decision dated June 23, 2014
- M-11 Front-End Fraud Unit Investigative Findings dated November 5, 2014
- M-12 Electronic Benefit Transfer (EBT) Transaction History and Transaction Detail from March 2014 – October 2014
- M-13 Attendance Verification from [REDACTED]
- M-14 Attendance Verification from [REDACTED]
- M-15 Child Support Information Screen Print
- M-16 Benefit Recovery Referral Screen Print
- M-17 Notice of Overpayment dated January 29, 2015
- M-18 Advance Notice of Administrative Disqualification Hearing Waiver dated March 10, 2015
- M-19 WV Income Maintenance Manual §10.3EE
- M-20 WV Income Maintenance Manual §8.2
- M-21 WV Income Maintenance Manual §20
- M-22 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 residency 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-7) for SNAP benefits on April 1, 2014. She reported her physical address as [REDACTED] in [REDACTED]. SNAP benefits were approved based on the information provided.
- 4) On October 7, 2014, the Defendant reported (M-6) to her caseworker that she had not received October SNAP benefits. The Defendant was advised that she had missed an eligibility redetermination. The Defendant reported having problems receiving mail at her physical address and requested all mail be sent to post office box in [REDACTED] [REDACTED] belonging to her mother.
- 5) The Defendant completed the SNAP redetermination (M-8) on October 14, 2014, and reported no change in her physical address, but listed [REDACTED]

in [REDACTED] as her mailing address. During a phone interview (M-6) on October 16, 2014, the Defendant was questioned about having a [REDACTED] mailing address. The Defendant advised her caseworker to send all mail to the post office box in [REDACTED].

- 6) The Department's Front-End Fraud Unit conducted an investigation (M-11) regarding the Defendant's residency. The residence at [REDACTED] in [REDACTED] was found to be vacant and uninhabitable. The Department verified that the Defendant's son, [REDACTED] had been attending school (M-13 and M-14) in [REDACTED] since March 2014. A review of the Defendant's EBT card usage (M-12) indicated the majority of the Defendant's purchases had been made in [REDACTED] since March 2014.
- 7) The Department contended that the Defendant made a false statement at her April 2014 SNAP application and October 2014 redetermination by reporting that she resided in West Virginia. The result of the Defendant's misrepresentation of her household's residency resulted in an overpayment (M-2) of SNAP benefits in the amount of \$5,707.

APPLICABLE POLICY

WV Income Maintenance Manual §8.2 states that to be eligible for benefits, the client must live within the borders of West Virginia.

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 April 2014 SNAP application and October 2014 SNAP redetermination regarding her household's residency. The house in [REDACTED] that was reported to be the Defendant's physical address was uninhabitable. The Department provided evidence establishing the Defendant's residency in [REDACTED] and therefore she was not eligible to receive SNAP benefits in West Virginia.

CONCLUSION OF LAW

Through the willful misrepresentation by the Defendant regarding her household's residency, 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