



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
4190 Washington Street, West  
Charleston, West Virginia 25313  
(304)746-2360, ext. 2227

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

May 27, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 15-BOR-1733

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,

Donna L. Toler  
State Hearing Officer  
Member, State Board of Review

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

cc: Danita Bragg, Criminal Investigator

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

████████████████████,

**Defendant,**

v.

**Action Number: 15-BOR-1733**

**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 April 7, 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 May 13, 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 thus should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Department appeared by ██████████, Criminal Investigator. The Defendant failed to appear. The witness was sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- M-1 InROADS Application for Supplemental Nutrition Assistance Program, e-signed July 24, 2010
- M-2 InROADS Application for Supplemental Nutrition Assistance Program, e-signed January 27, 2011
- M-3 Combined Application and Review Form for Financial, Medical, and Supplemental Assistance Program and accompanying Rights and Responsibilities, signed April 26, 2011
- M-4 Combined Application and Review Form for Financial, Medical, and Supplemental Assistance Program and accompanying Rights and Responsibilities, signed August 4, 2011
- M-5 Request for Employment Verification, dated November 9, 2011

M-6	2010 United States Individual Income Tax Return
M-7	2011 Internal Revenue Service Tax Return Transcript
M-8	Statement of Defendant, signed June 6, 2013, copy of Defendant's West Virginia Driver's License, and Statement of Advise and Consent, dated June 6, 2013
M-9	Statement of Defendant, signed July 25, 2013, copy of Defendant's West Virginia Driver's License, and Statement of Advise and Consent, dated July 25, 2013
M-10	West Virginia Income Maintenance Manual §1.2.E
M-11	West Virginia Income Maintenance Manual §20.2
M-12	West Virginia Income Maintenance Manual §20.6
M-13	Code of Federal Regulations 7 CFR §273.16

**Defendant's Exhibits:**

None

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 Investigations and Fraud Management Division of the Department of Health and Human Resources (Department) is alleging that the Defendant committed an Intentional Program Violation (IPV). The Department contends that the Defendant withheld information regarding household income, resulting in an over-issuance of Supplemental Nutrition Assistance Program (SNAP) benefits in the amount of \$8021 for the time period from August 2010 through December 2011.
- 2) The Defendant submitted redetermination forms for SNAP benefits on July 24, 2010 and January 27, 2011, and completed Combined Applications and Review Forms with the accompanying Rights and Responsibilities for WV WORKS and SNAP on April 26, 2011 and August 4, 2011. (Exhibits M-1 through M-4)
- 3) At the times of application and review, the Defendant reported an Assistance Group of seven (7) individuals which included herself, her husband, and their five (5) children. (Exhibits M-1 through M-4)
- 4) The Defendant reported that the household had no source of income. The Defendant signed the rights and responsibilities section of the redetermination forms, affirming that all the information she gave was "true, correct, and complete to the best of my ability, belief, and knowledge." (Exhibits M-1 through M-4)

- 5) The Defendant's husband was self-employed and reported earnings to the Internal Revenue Service for tax years 2010 and 2011. (Exhibits M-6 through M-9)

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual §1.2 specifies it is the client's responsibility to provide information about his/her circumstances so the Worker is able to make a correct decision concerning his/her eligibility.

West Virginia Common Chapters Manual §740.11.D and the Code of Federal Regulations 7 CFR Section 273.16, establish that an individual making a false or misleading statement, or misrepresenting, concealing or withholding facts has committed an Intentional Program Violation (IPV).

West Virginia Income Maintenance Manual §20.2.C.2 requires that once an IPV has been established, a disqualification period must be imposed on the Assistance Group member(s) 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 clearly established that the Defendant withheld information about her husband's income when she failed to report earnings received through her husband's self-employment. The Department's representative provided credible testimony that the Defendant received an overpayment of Supplemental Nutrition Assistance Program (SNAP) benefits in the amount of \$8021.

The Department established, by clear and convincing evidence, that the Defendant provided false statements to receive SNAP benefits for which she would not have otherwise been entitled. By withholding information pertaining to her husband's self-employment income, SNAP benefits were over-issued during the time period from August 2010 through December 2011.

### **CONCLUSIONS OF LAW**

- 1) The Defendant's action of withholding information regarding unearned income received through her husband's self-employment meets the regulatory definition of an Intentional Program Violation.
- 2) Because this is the Defendant's first offense, regulations require a twelve (12) month disqualification.

### **DECISION**

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation. The Defendant will be disqualified from participation in SNAP for twelve (12) months beginning July 1, 2015.

**ENTERED this \_\_\_ day of May 2015.**

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**Donna L. Toler**  
**State Hearing Officer**