



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

June 9, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-1798

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: Rusty Udy, [REDACTED] DHHR

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

██████████,

Defendant,

v.

Action Number: 15-BOR-1798

**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 13, 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 26, 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 be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Department appeared by Rusty Udy, Repayment Investigator. The Department's representative 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 Claim Calculation Sheet
- M-4 SNAP Issuance History Screen Print
- M-5 SNAP Allotment Determination Screen Prints
- M-6 Non-Financial Eligibility Determination Screen Prints
- M-7 Case Members History Screen Print
- M-8 Case Comments from May 2014-March 2015

- M-9 Employee Wage Data Screen Print and Employment Verification from [REDACTED]
- M-10 SNAP Review Form dated August 25, 2014
- M-11 Advance Notice of Administrative Disqualification Hearing Waiver dated March 26, 2015
- M-12 WV Income Maintenance Manual §§1.2 E and 20.2
- M-13 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 submitted a SNAP Review Form (D-10) on August 25, 2014. The Defendant listed no earned income for her household on this form. SNAP benefits were approved based on the information provided.
- 3) The Department verified (D-9) with [REDACTED] that the Defendant was hired there on March 24, 2014, and received regular earnings from this employment.
- 4) The Department contended that because the Defendant misrepresented her household's income, she was issued an overpayment (M-2 and M-3) of SNAP benefits in the amount of \$752 issued from October 2014 through November 2014.

APPLICABLE POLICY

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.

WV Income Maintenance Manual §1.2 E 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.

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

WV 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 on the August 2014 SNAP review form regarding earned income for her household. The Defendant listed that her household had no income when in fact she was employed and receiving earnings at the time she completed the SNAP review.

CONCLUSIONS OF LAW

Through the willful misrepresentation by the Defendant regarding her household 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 a 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 July 2015.

ENTERED this 9th day of June 2015

Kristi Logan
State Hearing Officer