



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
416 Adams St., Suite 307
Fairmont, WV 26554

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

June 15, 2015

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 15-BOR-1845

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,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

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

cc: Melissa Barr, Criminal Investigator, WVDHHR

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

██████████,

Defendant,

v.

Action Number: 15-BOR-1845

**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 17, 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 June 2, 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 24 months.

At the hearing, the Department appeared by Melissa Barr, Criminal Investigator. The Defendant failed to appear. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Advance Notice of Administrative Disqualification Hearing Waiver and Waiver of Administrative Disqualification Hearing dated April 6, 2015
- D-2 Code of Federal Regulations 7 CFR Section 273.16
- D-3 Combined Application and Review Form (CAF) and Rights and Responsibilities signed by the Defendant on January 6, 2009
- D-4 Combined Application and Review Form (CAF) and Rights and Responsibilities signed by the Defendant on May 4, 2009
- D-5 Combined Application and Review Form (CAF) and Rights and Responsibilities signed by the Defendant on June 22, 2009
- D-6 Application for West Virginia School Clothing Allowance signed and submitted by the Defendant on July 23, 2009
- D-7 Statement from ██████████ received on September 23, 2010
- D-8 ██████████ enrollment verification regarding ██████████

- D-9 [REDACTED] enrollment verification regarding [REDACTED]
- D-10 Food Stamp (SNAP) Claim Determination for the period of January 2009 through October 2009, with supporting calculations
- D-11 WV Income Maintenance Manual §1.2.E
- D-12 WV Income Maintenance Manual §2.2.B
- D-13 WV Income Maintenance Manual §2.2.B.4
- D-14 WV Income Maintenance Manual §20.2.C.2
- D-15 WV Income Maintenance Manual §9.1.A.2.g
- D-16 Electronic Disqualified Recipient System (eDRS) Query Results – found at https://www.edrsng.fns.usda.gov/Query/Query_Main.apx - retrieved on April 6, 2015

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) A request for an Administrative Disqualification Hearing was received by the Board of Review from the West Virginia Department of Health and Human Resources, hereinafter Movant, on April 17, 2015. Movant contends that the Defendant has committed an Intentional Program Violation (IPV) and is recommending that the Defendant be disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP) for a period of 24 months.
- 2) Notification of the June 21, 2015 hearing was mailed to the Defendant on April 30, 2015, via Certified, Restricted Delivery, U. S. Mail. The Defendant's signature, dated May 4, 2015, on the Certified mail receipt confirms notification of the June 21, 2015 hearing.
- 3) The hearing convened as scheduled at 12 p.m., and as of 12:15 p.m., the Defendant failed to appear. As set forth in the Code of Federal Regulations found at §7 CFR 273.16 (e) (4), and State Policy (West Virginia Department of Health and Human Resources Common Chapters Manual, Chapter 740.20), the hearing was conducted without the Defendant in attendance.
- 4) The Defendant completed three (3) SNAP applications (D-3 on January 6, 2009, D-4 on May 4, 2009, and D-5 on June 22, 2009), as well as a WV School Clothing Allowance application (D-6) on July 23, 2009. The Defendant reported that her daughters [REDACTED] and [REDACTED] were members of her Assistance Group (AG) in each of the noted applications.

- 5) Information included in Exhibits D-7, D-8 and D-9, however, confirms that [REDACTED] and [REDACTED] were residing with their father, [REDACTED], and [REDACTED], and attending [REDACTED] since August 2008. [REDACTED] is also listed as the children's primary contact at [REDACTED].
- 6) Movant's Exhibit D-10 (Food Stamp Claim Determination) indicates that by providing untruthful information about her household composition, during the period of January 2009 through October 2009, the Defendant received \$2,626 in SNAP benefits to which she was not legally entitled.
- 7) The Defendant signed her SNAP application forms (D-3, D-4 and D-5) certifying that the information she provided was true and correct, and she signed the accompanying Rights and Responsibilities forms acknowledging the following:

I understand if I am found (by court action or an administrative disqualification hearing) to have committed an act of intentional program violation, I will not receive Food Stamp benefits as follows: First Offense – one year; Second Offense – two years; Third Offense – permanently. In addition, I will have to repay any benefits received for which I was not eligible.

By signing the Rights and Responsibilities form, the Defendant certified that she read, understood, and accepted the rights and responsibilities, and that all of the information provided was true and correct.

- 8) Movant's Exhibit D-16 confirms that this is the Defendant's second IPV offense.

APPLICABLE POLICY

Policy found in §1.2(E) of the West Virginia Income Maintenance Manual provides that it is the client's responsibility to provide information about his circumstances so the worker is able to make a correct decision about his eligibility.

According to the West Virginia Income Maintenance Manual, §2.2.B, all SNAP AGs must report changes related to eligibility and benefit amount at application and redetermination.

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 AG 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 evidence clearly demonstrates that the Defendant was untruthful when she reported that her daughters [REDACTED] and [REDACTED] were residing in her home when she completed three (3) separate SNAP applications on January 6, 2009, May 4, 2009 and again on June 22, 2009. The evidence is clear and convincing that the Defendant's act was intentional – she knowingly provided false and misleading information to receive SNAP benefits to which she was not legally entitled.

CONCLUSIONS OF LAW

- 1) The regulations that govern the SNAP state that a program violation has occurred when an individual intentionally makes a false or misleading statement, or misrepresents, conceals or withholds facts relating to the use, presentation, transfer, acquisition, receipt or possession of SNAP benefits.
- 2) The Defendant was notified timely of the June 2, 2015 Administrative Disqualification Hearing, but failed to appear and refute the evidence submitted in support of an IPV. The evidence confirms the Defendant knowingly provided false and misleading information about her household composition in order to receive SNAP benefits to which she was not legally entitled. This clearly establishes intent.
- 3) There is clear and convincing evidence that the Defendant committed an Intentional Program Violation as defined in the SNAP policy and regulations.
- 4) Pursuant to SNAP policy and regulations, an Intentional Program Violation has been committed and a disqualification penalty must be applied. The disqualification for a second offense is 24 months.

DECISION

The Department's proposal to apply a 24-month SNAP benefit disqualification is **upheld**. The Defendant will be disqualified from participation in the SNAP for 24 months beginning August 1, 2015.

ENTERED this ____ day of June 2015.

**Thomas E. Arnett
State Hearing Officer**