



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

June 13, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-1847

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: Natasha Jemerison, Repayment Investigator

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

██████████,

Defendant,

v.

Action Number: 15-BOR-1847

**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 20, 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 3, 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 Natasha Jemerison, Repayment Investigator. The Defendant failed to appear. The witness was sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Benefit Recovery Referral computer screen print, dated February 9, 2015
- D-2 West Virginia Income Maintenance Manual §1.2.E
- D-3 Food Stamp Claim Determination form, dated August 2014 through January 2015; Case Member History computer screen print, dated March 20, 2015; Food Stamp Allotment Determination computer screen prints, dated August 2014 through February 2015; Employment computer screen print, dated February 2015; SNAP Issuance History - Disbursement computer screen print, dated April 2014 through March 2015; and Case Comments computer screen print dated July 10, 2014 through February 23, 2015 (missing page 2 of 36 and pages 5-36 of 36)
- D-4 Code of Federal Regulations 7 CFR §273.16

- D-5 Form CSLR, Supplemental Nutrition Assistance Program (SNAP) and Medicaid / WV CHIP review form, date-stamped received July 15, 2014
- D-6 Employee Wage Data computer screen print, dated second quarter 2009 through fourth quarter 2014
- D-7 West Virginia Income Maintenance Manual §20.6

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 \$2736 for the time period from August 2014 through January 2015.
- 2) The Defendant submitted a review/redetermination form for SNAP/Medicaid benefits on July 15, 2014. (Exhibit D-5)
- 3) At the time of the review, the Defendant reported an Assistance Group of three (3) individuals which included herself and her two (2) children. (Exhibits D-5)
- 4) The Defendant reported that the household had no source of earned income. The Defendant signed the rights and responsibilities section of the redetermination form, affirming that all the information she gave was "true, correct, and complete to the best of my ability, belief, and knowledge." (Exhibit D-5)
- 5) The Defendant was employed and received wages (earned income) through her employment with [REDACTED].
- 6) The Defendant was hired by [REDACTED] and received earned income beginning in the second quarter of 2014 and continuing through February 2015. (Exhibits D-2 and D-6)

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 earned income when she failed to report the earnings received through her employment with [REDACTED]. As a result of failing to provide accurate information regarding her income, the Defendant received an overpayment of Supplemental Nutrition Assistance Program (SNAP) benefits from August 2014 through January 2015, in the amount of \$2736.

CONCLUSIONS OF LAW

- 1) The Defendant's action of withholding information regarding earned income received through her 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 June 2015.

**Donna L. Toler
State Hearing Officer**