



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
203 East Third Avenue
Williamson, WV 25661

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

July 9, 2015



RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-2010

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,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

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

cc: Cassandra Burns, Repayment Investigator

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

██████████,

Defendant,

v.

Action Number: 15-BOR-2010

**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 May 8, 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 Section 273.16. The hearing was convened on July 1, 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 twenty-four (24) months.

At the hearing, the Department appeared by Cassandra Burns, Repayment Investigator. The Defendant appeared *pro se*. Both participants were sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 Code of Federal Regulations §273.16
- M-2 Form ES-FS-5, Food Stamp (SNAP) Claim Determination
- M-3 SNAP Review Form, signed by Defendant on February 4, 2015
- M-4 Medicaid Review Form, signed by Defendant on February 4, 2015
- M-5 Case recordings from Defendant's SNAP record, from September 3, 2014, through February 6, 2015
- M-6 Print-out from the WV Bureau of Child Support Enforcement's computer system, OSCAR, showing disbursements to the Defendant from November 5, 2013, through April 7, 2015
- M-7 West Virginia Income Maintenance Manual (WV IMM) Chapter 1, §1.2.E
- M-8 WV IMM Chapter 20, §20.2

- M-9 WV IMM Chapter 20, §20.6
M-10 Copy of IG-IFM-ADH-waiver, Waiver of Administrative Disqualification Hearing form, and IG-IFM-ADH-Ltr, Notice of Intent to Disqualify form, sent to Defendant on April 28, 2015

Defendant's Exhibits

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence, 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's representative contends the Defendant committed an Intentional Program Violation and should be disqualified from SNAP for two years because she intentionally withheld the fact that she received child support income, on SNAP and Medicaid review forms she submitted to the Department in February 2015. Because the Defendant did not report this income, her SNAP assistance group (AG) received SNAP benefits to which it was not entitled for the months of March and April 2015, in the amount of \$246 (Exhibit M-2).
- 2) The Defendant performed a periodic reporting contact (PRC) SNAP review in February 2015. She signed the review form (Exhibit M-4) on February 4, 2015. On section 5 of the form, labeled "Household Unearned Income," it indicates the household's reported income is "\$0.00" then asks, "Has the source of your household's gross unearned income changed or has the amount changed by more than \$50 since you last reported a change?" The Defendant has not checked either of the "Yes" or "No" boxes or entered any income in this section.
- 3) The Defendant also completed a child's Medicaid review on February 4, 2015 (Exhibit D-4). In the unearned income section of this form, the Defendant has entered no child support or any other type of monthly benefits.
- 4) The Defendant has received child support current monthly payments and child support arrearages at least as early as November 2013, but not consistently. WV Bureau of Child Support Enforcement (BCSE) records (Exhibit M-6) indicate she received no child support from February 2014 until August 2014.
- 5) In August 2014, the Defendant began receiving consistent child support or child support arrearage payments, and received them through April 2015.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WV IMM) Chapter 1.2.E states that it is the client's responsibility to provide information about his/her circumstances so the worker is able to make a correct decision about his/her eligibility.

WV IMM Chapter 20.2 states that when an AG has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation or Intentional Program Violation claim. The claim is the difference between the allotment the client received and the allotment he should have received.

WV IMM Chapter 20.2.C.2 provides that once an IPV (Intentional Program Violation) is established, a disqualification penalty is imposed on the AG members who committed the IPV. The penalties are as follows: First Offense – one year disqualification; Second Offense – two years disqualification; Third Offense – permanent disqualification.

WV IMM Chapter 20.6 states, “A willfully false statement is one that is deliberately given, with the intent that it be accepted as true, and with the knowledge that it is false . . . It is not essential that an affirmative representation be made. Misrepresentation may also be the suppression of what is true, as well as the representation of what is false.”

Pursuant to the Code of Federal Regulations 7 CFR Section 273.16, an Intentional Program Violation shall consist of a SNAP recipient 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.

DISCUSSION

The Defendant reported that she received no earned or unearned income in her SNAP assistance group on SNAP and Medicaid review forms submitted to the Department in February 2015. The Department provided clear and convincing evidence that she received regular and consistent child support monthly obligation and arrearage payments beginning in August 2014 and continuing after February 2015.

CONCLUSIONS OF LAW

- 1) Pursuant to the Code of Federal Regulations and Common Chapters Manual, the Defendant made a false or misleading statement, or misrepresented, concealed or withheld facts, in order to receive SNAP benefits to which she was not legally entitled.
- 2) The Department presented clear and convincing evidence that Defendant committed an Intentional Program Violation by not reporting she received child support income on SNAP and Medicaid review forms submitted to the Department in February 2015, in violation of WV IMM §1.2.E. The Department must impose a disqualification penalty.
- 3) The disqualification for a second offense IPV is two years.

DECISION

It is the ruling of the Hearing Officer that the Defendant committed an Intentional Program Violation. She will be disqualified from participating in SNAP for two years, beginning August 1, 2015.

ENTERED this 9th Day of July 2015.

**Stephen M. Baisden
State Hearing Officer**