



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

July 21, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-2085

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-2085

**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 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 July 9, 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:

- M-1 RAPIDS Benefit Recovery Referral computer screen print, dated September 16, 2014
- M-2 West Virginia Income Maintenance Manual §1.2.E
- M-3 Food Stamp Claim Determination forms, dated November 2012 through April 2013 and May 2013 through October 2013, with supporting documentation of over-issuance calculations
- M-4 Code of Federal Regulations 7 CFR §273.16
- M-5 Combined Application and Review Form for Financial, Medical and Supplemental Nutrition Assistance Program (SNAP) benefits, signed November 8, 2012
- M-6 Rights and Responsibilities, signed November 8, 2012

- M-7 Supplemental Nutrition Assistance Program (SNAP) re-determination form (No Phone Review) and accompanying Rights and Responsibilities, signed October 31, 2013
- M-8 [REDACTED], Earnings Report for [REDACTED], dated July 12, 2012 through October 31, 2013 and Unemployment Benefit Payment History November 2013 through April 2014
- M-9 West Virginia Income Maintenance Manual §20.6
- M-10 Advance Notice of Administrative Disqualification Hearing Waiver, dated April 24, 2015

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 \$9,780 for the time period from November 1, 2012 through October 31, 2013. (Exhibit M-3)
- 2) The Defendant completed SNAP applications/redeterminations on November 8, 2012, and October 31, 2013. (Exhibits M-5 and M-7)
- 3) At the times of the applications/redeterminations, the Defendant reported an Assistance Group of six (6) individuals which included herself, her husband and four (4) children. (Exhibits M-5 and M-7)
- 4) At the times of the applications/redeterminations, the Defendant reported that the household had no source of earned income or unearned income. The Defendant signed the rights and responsibilities sections of the application and review forms, affirming that all the information she gave was "true, correct, and complete to the best of my ability, belief, and knowledge." (Exhibit M-6 and M-7)
- 5) The Defendant's husband was employed and received wages (earned income) through his employment with [REDACTED], beginning on July 12, 2012 and continuing until he received his final paycheck on October 31, 2013. (Exhibit M-8)

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.

West Virginia Income Maintenance Manual §1.4 (April/May 2013) required redeterminations at six (6) month intervals for SNAP recipients. In June 2014, certification periods were changed from six (6) months to twelve (12) months for non-aged/disabled households.

DISCUSSION

The Department clearly established that the Defendant withheld information about her husband's earned income when she failed to report the earnings received through his employment with [REDACTED] at the time of her November 2012 SNAP redetermination. As a result of failing to provide accurate information regarding her husband's income, the Defendant received an over-issuance of Supplemental Nutrition Assistance Program (SNAP) benefits from November 1, 2012 through April 2013, in the amount of \$4,890.

The Department alleged that the Defendant received an additional over-issuance in the amount of \$4,890, from the time period of May 1, 2013 through October 31, 2013. However, the Department failed to establish, through a preponderance of evidence, the Defendant provided false information at the time of a subsequent review (conducted in either April or May 2013) which resulted in an over-issuance of benefits for the time period from May 1, 2013 through October 31, 2013. Although a benefit issuance history demonstrated that the Defendant received SNAP for the time period from May through October 2013, the Department failed to provide any evidence - such as an eligibility redetermination form or documentation in case comments - that the Defendant failed to disclose her husband's employment at the time of the April or May 2013 SNAP review.

It should be noted that prior to June 2014, policy required that all non-aged/disabled households complete eligibility reviews at six (6) and twelve (12) months.

CONCLUSIONS OF LAW

- 1) The Defendant's action of withholding information regarding earned income received through her husband's employment from November 2012 through April 2013, 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 September 1, 2015.

ENTERED this ___ day of July 2015.

Donna L. Toler
State Hearing Officer