



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

August 10, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-2127

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: Recourse to Hearing Decision
Form IG-BR-29

cc: Tammi Cooley, [REDACTED] DHHR

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

██████████,

Defendant,

v.

Action Number: 15-BOR-2127

**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 26, 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 28, 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 Movant appeared by Tammi Cooley, Fraud Investigator. The Movant's representative was sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 Hearing Summary
- M-2 SNAP Application dated January 28, 2013
- M-3 Case Comments from January 2013-February 2013
- M-4 Individual Demographics Screen Print
- M-5 SNAP Issuance History-Disbursement Screen Print
- M-6 Case History Screen Print from ██████████
- M-7 Dependent Inquiry Screen Print from ██████████
- M-8 Legacy FSIS Payment Detail History Screen Print from ██████████
- M-9 Electronic Benefit Transaction (EBT) Transaction History – West Virginia
- M-10 EBT Transaction History – ██████████
- M-11 SNAP Application dated April 23, 2014

- M-12 Case Comments from April 2014-July 2014
- M-13 SNAP Issuance History-Disbursement Screen Print
- M-14 SNAP Recertification Form dated January 6, 2014 – [REDACTED]
- M-15 Case Profile of SNAP Disbursement Screen Print – [REDACTED]
- M-16 EBT Transaction History – West Virginia
- M-17 EBT Transaction History – [REDACTED]
- M-18 West Virginia Income Maintenance Manual §1.2E
- M-19 West Virginia Income Maintenance Manual §8.6A
- M-20 Code of Federal Regulations – 7CFR §273.16
- M-21 West Virginia Income Maintenance Manual §20

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 receiving SNAP benefits in two (2) states simultaneously, and requested that a SNAP penalty of twelve (12) months be imposed against her.
- 2) The Defendant was notified of the hearing by scheduling order sent on June 2, 2015. The Defendant failed to appear for the hearing or provide good cause for her failure to do so. In accordance to 7 CFR §273.16(e) (4)) and West Virginia Department of Health and Human Resources’ Common Chapters Manual, §740.20, the hearing was held without the Defendant in attendance.
- 3) The Defendant applied (M-2) for SNAP benefits on January 28, 2013. She received SNAP benefits (M-5) from January 2013 through August 2013, at which time the case was closed at the Defendant’s request.
- 4) The Defendant reapplied (M-11) for SNAP benefits on April 24, 2014. She received SNAP benefits (M-13) from April 2014 through July 2014.
- 5) The Defendant was receiving SNAP benefits (M-6, M-7, and M-8) in [REDACTED] from November 2013 through April 2014. The Defendant also received SNAP benefits (M-15) in [REDACTED] from January 2014 through July 2014.
- 6) EBT transaction histories confirm that the Defendant used SNAP benefits issued by [REDACTED] and [REDACTED] (M-10 and M-17) while using benefits issued by West Virginia (M-9 and M-16).

APPLICABLE POLICY

Code of Federal Regulations 7 CFR §273.16, establishes that an individual making a false or misleading statement, or misrepresenting, concealing or withholding facts, violating the Food Stamp Program, or any State statute for the purpose of acquiring, receiving, possessing or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system has committed an Intentional Program Violation (IPV).

West Virginia Income Maintenance Manual §20.C.2 defines an IPV and establishes that IPV's include: making false or misleading statements, misrepresentations, concealing or withholding information, and committing any act that violates the Food Stamp Act of 1977, SNAP regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of SNAP benefits. Once an IPV has been established, a disqualification period must be imposed on the Assistance Group (AG) member who committed the violation. Furthermore, IPV claims must be established for trafficking-related offenses. Claims arising from trafficking-related offenses are the value of the trafficking benefits as determined by the individual's admission, adjudication, or documentation that forms the basis of the trafficking determination.

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 §8.6 states that a client may not receive SNAP benefits concurrently in more than one state.

DISCUSSION

The Department provided clear and convincing evidence that the Defendant committed an Intentional Program Violation by receiving SNAP benefits concurrently in West Virginia, [REDACTED] and [REDACTED]. The Defendant was receiving SNAP benefits in [REDACTED] at the time she applied for SNAP benefits in West Virginia January 2013 and was a SNAP recipient in [REDACTED] when she reapplied in West Virginia in April 2014.

CONCLUSIONS OF LAW

Through the willful misrepresentation by the Defendant regarding her receipt of SNAP benefits in another state, 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 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 September 2015.

ENTERED this 10th day of August 2015

**Kristi Logan
State Hearing Officer**