



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
2699 Park Avenue, Suite 100
Huntington, WV 25704

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

August 25, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-2129

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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

cc: Cassandra Burns, Department Representative

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

██████████,

Defendant,

v.

Action Number: 15-BOR-2129

**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 27, 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 August 11, 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 Cassandra Burns. The Defendant was notified of the hearing and failed to appear, resulting in the hearing being held in the Defendant's absence. All witnesses were sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- D-1 Code of Federal Regulations, 7 CFR §273.16
- D-2 SNAP claim determination form and supporting documentation
- D-3 ██████████ Family Court Order, dated August 7, 2014
- D-4 Household composition questionnaire, completed May 5, 2015
- D-5 SNAP review documents, submitted August 25, 2014
- D-6 Screen prints of case comments from the Movant's computer system regarding the Defendant's case, entry dates August 13, 2014, through November 21, 2014

- D-7 West Virginia Income Maintenance Manual, Chapter 1.2
- D-8 West Virginia Income Maintenance Manual, Chapter 20.2
- D-9 West Virginia Income Maintenance Manual, Chapter 20.6
- D-10 Administrative Disqualification Hearing documents

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) Defendant received an overissuance of SNAP benefits from September 2014 to November 2014, totaling \$484 (Exhibit D-2).
- 2) The overissuance was based on the inclusion of the Defendant's son [REDACTED] in her assistance group (AG) when in fact he was not residing with her.
- 3) The Movant presented documentation to show that [REDACTED] was court ordered to reside with his grandparents (Exhibit D-3) and that he had been residing with his grandparents without interruption during the time period the Defendant was receiving benefits for him (Exhibit D-4).
- 4) The Defendant's son was included in her SNAP AG based on her reporting him as residing with her on a SNAP review document she electronically signed on August 25, 2014 (Exhibit D-5).
- 5) The Department contended the action of the Defendant to falsely report an individual in her household constitutes an Intentional Program Violation (IPV), and requested this hearing for the purpose of making that determination.
- 6) The Defendant has no prior IPV offenses.

APPLICABLE POLICY

The Code of Federal Regulations, 7 CFR §273.16(c) defines an IPV as having intentionally "made a false or misleading statement" for purposes of SNAP eligibility.

The West Virginia Income Maintenance Manual, Chapter 9.1.A.2.h, indicates a first offense IPV results in a one year disqualification from SNAP.

DISCUSSION

The Defendant did not appear for the hearing, and as such could not dispute the evidence presented by the Department.

The facts presented by the Department clearly show an action that meets the codified IPV definition. The Defendant made a false statement regarding her household composition, specifically stating that her son was residing with her when in fact he was not. The Defendant's false statement is sufficient to indicate intent.

CONCLUSION OF LAW

Because the Defendant has committed a first-offense IPV, the Department must disqualify the Defendant from receipt of SNAP benefits for one year.

DECISION

The proposed IPV disqualification of the Defendant is upheld. The Defendant will be disqualified from receipt of SNAP benefits for a period of one year, beginning October 1, 2015.

ENTERED this ____ Day of August 2015.

Todd Thornton
State Hearing Officer