



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

September 23, 2015

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 15-BOR-2273

Dear Mr. [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: Fred Francis, Department Representative

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

██████████,

Defendant,

v.

Action Number: 15-BOR-2273

**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 June 15, 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 September 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 Fred Francis. The Defendant was notified of the hearing and failed to appear, resulting in the hearing being held in the Defendant's absence. The Department's representative was sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- D-1 SNAP application/review documents dated September 5, 2000
- D-2 SNAP application/review documents dated December 4, 2000
- D-3 SNAP application/review documents dated August 30, 2001
- D-4 SNAP application/review documents dated January 11, 2002
- D-5 SNAP application/review documents dated March 1, 2002
- D-6 School Clothing Allowance (SCA) application documents dated July 5, 2001
- D-7 SCA application documents dated July 8, 2002
- D-8 Income verification for the Defendant

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 Defendant received an overissuance of SNAP benefits from September 2000 through September 2002 totaling \$7279.
- 2) The overissuance was based on the exclusion of the Defendant's military pension income from the calculation of his SNAP benefits.
- 3) This income was not included in the calculation of the Defendant's SNAP benefits because the Defendant failed to report the income on SNAP applications or reviews (Exhibits D-3 and D-5) and on a SCA application (Exhibit D-7). (SCA benefits are also administered by the Movant, and eligibility factors reported for this program may affect ongoing SNAP eligibility.)
- 4) The Movant presented income verification (Exhibit D-8) for the Defendant. The Defendant was receiving military pension income at the time he completed the applications or reviews on which he did not report this income.
- 5) The Movant contended the action of the Defendant to conceal information regarding his household income 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 "concealed or withheld facts" 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 facts presented by the Movant.

The testimony and evidence presented by the Movant clearly show an action that meets the codified IPV definition. The Defendant made false statements regarding his household income. The duration and dollar amount of the resulting overissuance is sufficient to indicate intent.

CONCLUSION OF LAW

Because the action of the Defendant constitutes an IPV, the Department must disqualify the Defendant from receipt of SNAP benefits, and because the IPV is a first offense the disqualification period is 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 November 1, 2015.

ENTERED this ____ Day of September 2015.

**Todd Thornton
State Hearing Officer**