



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 25, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-2274

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: Fred Francis, [REDACTED] DHHR

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

██████████,

Defendant,

v.

Action Number: 15-BOR-2274

**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 August 12, 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, Criminal Investigator. The Department's representative was sworn and the following documents were admitted into evidence.

Movant's Exhibits:

M-1 Combined Application and Review Form and Rights and Responsibilities Form dated September 5, 2000

M-2 Combined Application and Review Form and Rights and Responsibilities Form dated December 4, 2000

M-3 Combined Application and Review Form and Rights and Responsibilities Form dated August 30, 2001

- M-4 Combined Application and Review Form and Rights and Responsibilities Form dated January 11, 2002
- M-5 Combined Application and Review Form and Rights and Responsibilities Form dated March 1, 2002
- M-6 School Clothing Allowance Application dated July 5, 2001
- M-7 School Clothing Allowance Application dated July 8, 2002
- M-8 Income Verification from Defense Finance and Accounting for [REDACTED] dated January 10, 2005

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 falsely reporting her household income, 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 23, 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-1) for SNAP benefits on September 5, 2000. She reported that her household consisted of herself, her husband, and her daughter.
- 4) The Defendant's household received SNAP benefits from September 2000 through September 2002. The Defendant completed SNAP reviews on December 4, 2000 (M-2), August 30, 2001 (M-3), January 1, 2002 (M-4) and March 1, 2002 (M-5).
- 5) The Defendant's husband, [REDACTED], had been receiving a monthly military pension (M-8) since August 2000. The Defendant failed to report this income to the Department during the aforementioned application and reviews.

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.

DISCUSSION

The Defendant failed to report her husband's unearned income during her receipt of SNAP benefits from September 2000 through September 2002. The Defendant's husband had been receiving a monthly pension prior to the initial SNAP application. The Defendant had numerous opportunities to report this income during subsequent SNAP reviews, yet she continued to misrepresent her household's total gross income.

CONCLUSIONS OF LAW

Through clear and convincing evidence, the Department established that the Defendant committed an Intentional Program Violation by falsely reporting her household's income.

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 October 2015.

ENTERED this 25th day of August 2015

**Kristi Logan
State Hearing Officer**