



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

August 13, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-2282

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: Addison Hamilton, Criminal Investigator

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

██████████,

Defendant,

v.

Action Number: 15-BOR-2282

**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 10, 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 13, 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 Addison Hamilton, Criminal Investigator. The Defendant appeared *pro se*. The witness was sworn and the following documents were admitted into evidence.

Department's Exhibits:

- M-1 West Virginia Income Maintenance Manual §1.2.E
- M-2 Code of Federal Regulations 7 CFR §273.16
- M-3 West Virginia Income Maintenance Manual §2.2.B
- M-4 Combined Application and Review Form for Financial, Medical and Supplemental Nutrition Assistance Program (SNAP) benefits and accompanying Rights and Responsibilities, signed June 6, 2005
- M-5 Combined Application and Review Form for Financial, Medical and Supplemental Nutrition Assistance Program (SNAP) benefits and accompanying Rights and Responsibilities, signed December 1, 2005
- M-6 Case Comments computer screen print, dated April 29, 2005 through June 21, 2005

- M-7 Case Comments computer screen print, dated November 1, 2005 through March 14, 2006
- M-8 Employment Data for Defendant from [REDACTED], employment start date April 25, 2005
- M-9 Food Stamp Issuance and Case Benefit Summary computer screen print, dated June 2005 through June 2006
- M-10 West Virginia Income Maintenance Manual §20.6
- M-10 West Virginia Income Maintenance Manual §20.2

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 \$3,811 for the time period from June 6, 2005 through June 2006. (Exhibit M-9)
- 2) The Defendant completed SNAP applications/redeterminations on June 6, 2005, and December 1, 2005. (Exhibits M-4 and M-5)
- 3) At the times of the applications/redeterminations, the Defendant reported an Assistance Group (AG) of three (3) individuals which included herself and her two (2) children. (Exhibits M-4 and M-5)
- 4) At the times of the applications/redeterminations, the Defendant reported that she received unearned income through child support, child support arrearages, child support incentive and United States Department of Housing and Urban Development (HUD) supplements. The Defendant reported that the household had no source of earned 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-4 and M-5)
- 5) The Defendant was employed and received wages (earned income) through her employment with [REDACTED] ([REDACTED]), beginning on April 25, 2005 through June 16, 2006. It should be noted that the

Defendant was not a recipient of [REDACTED] benefits, but an employee of the Agency. (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.

DISCUSSION

The Department clearly established that the Defendant withheld information about her earned income when she failed to report the earnings received through her employment with [REDACTED] at the time of her June 2005 and December 2005 applications/redeterminations for SNAP benefits. As a result of failing to provide accurate information regarding her income, the Defendant received an over-issuance of Supplemental Nutrition Assistance Program (SNAP) benefits from June 6, 2005 through June 2006, in the amount of \$3,811.

CONCLUSIONS OF LAW

- 1) The Defendant's action of withholding information regarding earned income she received through her employment from June 2005 through June 2006, 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 August 2015.

**Donna L. Toler
State Hearing Officer**