



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 13, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-2342

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

cc: Christine Allen, [REDACTED] DHHR

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

██████████,

Defendant,

v.

Action Number: 15-BOR-2342

**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 22, 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 4, 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 Christine Allen, Repayment Investigator. The Department's representative was sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 Hearing Summary
- M-2 SNAP Claim Determination
- M-3 SNAP Issuance History-Disbursement Screen Print
- M-4 SNAP Allotment Determination Screen Print
- M-5 SNAP Claim Calculation Sheets
- M-6 Case Members History Screen Print
- M-7 Case Comments from December 2014-June 2015

- M-8 SNAP 6-or 12-Month Contact Form received December 29, 2014
- M-9 Medicaid Review Form received December 29, 2014
- M-10 Notice of Decision dated January 2, 2015
- M-11 FACTS Child Client Benefit Details Screen Print
- M-12 Correspondence from April Johnson, [REDACTED] DHHR, dated April 7, 2015
- M-13 Benefit Recovery Referral Screen Print
- M-14 Initial Order Upon Filing of Petition from the Circuit Court of [REDACTED] West Virginia dated November 12, 2014
- M-15 Correspondence from William Renn, [REDACTED] DHHR, dated May 14, 2015
- M-16 OSCAR Narrative from April 2015-June 2015
- M-17 Notice of Overpayment dated May 14, 2015
- M-18 Advance Notice of Administrative Disqualification Hearing Waiver dated June 10, 2015
- M-19 West Virginia Income Maintenance Manual §1.2E
- M-20 West Virginia Income Maintenance Manual §9.1A
- M-21 West Virginia Income Maintenance Manual §20
- M-22 Code of Federal Regulations – 7 CFR §273.16

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 composition, 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 submitted a SNAP review form (M-8) on December 29, 2014. She reported that her household consisted of herself, her two (2) children, and her cohabiter [REDACTED]
- 4) The Defendant also submitted a Medicaid review form (M-9) on December 29, 2014. The Defendant’s children and Mr. [REDACTED] were listed as the Defendant’s household members.
- 5) The Circuit Court of [REDACTED], West Virginia (M-14) removed the Defendant’s children from her custody on November 12, 2014. Her children were placed in the Department’s custody where they have remained in foster care.

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.

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 §1.2 E reads that it is the client's responsibility to provide accurate information regarding his circumstances so that a correct decision about eligibility can be made. Failure to fulfill this obligation may result in the denial of an application, closure of an active Assistance Group (AG), removal of an individual from the AG, and/or a repayment/reduction in benefits.

West Virginia Income Maintenance Manual §9.1A states that the SNAP AG must include all eligible individuals who both live together and purchase and prepare their meals together.

DISCUSSION

The Department provided clear and convincing evidence that the Defendant made a false statement on the December 2014 SNAP review form by reporting her children as residing in her household when in fact they had been removed from her custody in November 2014.

CONCLUSIONS OF LAW

Through the willful misrepresentation by the Defendant regarding her household composition, 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 14th day of August 2015

**Kristi Logan
State Hearing Officer**