



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL

Earl Ray Tomblin
Governor

BOARD OF REVIEW
203 East Third Avenue
Williamson, WV 25661

Karen L. Bowling
Cabinet Secretary

September 21, 2015



RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-2562

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,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

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

cc: Christine Allen, Repayment Investigator

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

██████████,

Defendant,

v.

Action Number: 15-BOR-2562

**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 July 14, 2015. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' (WV DHHR) Common Chapters Manual and Federal Regulations at 7 CFR §273.16. The hearing was convened on September 10, 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 twelve (12) months.

At the hearing, the Department appeared by Christine Allen, Repayment Investigator. Although the Board of Review sent Defendant a hearing notice by first-class mail on July 23, 2015, the Defendant did not appear. The participant was sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 IG-IFM-BR-31 Hearing Summary
- M-2 ES-FS-5 Food Stamp (SNAP) Claim Determination sheet
- M-3 IQFS Screen Print from RAPIDS computer system showing SNAP issuance history
- M-4 EFAD Screen Print from RAPIDS showing calculations for the months of February 2015 through May 2015, for Defendant's SNAP benefit allotment
- M-5 Food Stamp (SNAP) Claim Calculation Sheets, showing corrected SNAP allotment determination calculations for the months of February 2015 through May 2015

- M-6 AQCM Screen print from RAPIDS showing case member history
- M-7 CMCC Screen print from Defendant's RAPIDS case showing Income Maintenance worker case comments made from November 10, 2014 to May 14, 2015
- M-8 Copy of Combined Application Form (CAF) dated and signed by Defendant on January 26, 2015
- M-9 Copy of Rights and Responsibilities Form dated and signed by Defendant on January 26, 2015
- M-10 Letter from Department to Defendant, dated January 27, 2015
- M-11 Front-End Fraud Unit (FEFU) Investigative Findings, signed and dated by FEFU worker on May 14, 2015
- M-12 Order Granting Petition for Temporary Custody by Extended Family, dated February 16, 2015, from [REDACTED], Circuit Court
- M-13 Written statement from [REDACTED], dated May 30, 2015
- M-14 Attendance Verification form dated April 2, 2105, completed by secretary at [REDACTED] Public Schools
- M-15 Attendance Verification form dated April 28, 2105, completed by secretary at [REDACTED], including Student Registration and Medical Information form from [REDACTED], School District
- M-16 Benefit Recovery Referral, dated May 15, 2015
- M-17 Copy of appointment letter (IFM-1-7d) sent to Defendant on June 17, 2015, asking her to meet with Repayment Investigator on June 29, 2015, to discuss a possible SNAP program violation
- M-18 Copy of IG-IFM-ADH Advance Notice of Administrative Disqualification Hearing and IG-IFM-ADH Waiver of Administrative Disqualification Hearing form, dated June 29, 2015
- M-19 Copy of WV Income Maintenance Manual (IMM) Chapter 1, §1.2.E
- M-20 Copy of WV IMM Chapter 8, §8.2
- M-21 Copy of Income Maintenance Manual Chapter, §§20.1 and 20.2
- M-22 Copy of the Code of Federal Regulations (CFR) §273.16

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 Department's representative contended the Defendant committed an Intentional Program Violation and should be disqualified from SNAP for one year because she intentionally withheld the fact that her two children, members of her SNAP assistance group (AG), resided with their grandmother in the state of [REDACTED] from February 2015 through May 2015.

- 2) On January 26, 2015, the Defendant completed a review/redetermination for SNAP benefits. She signed a Combined Application Form (CAF) (Exhibit M-8) and a Rights and Responsibilities Form (Exhibit M-9) on that date. According to the CAF, she reported that her household and SNAP AG consisted of herself, her two children and a fourth person.
- 3) On May 15, 2015, a Front-End Fraud Unit (FEFU) worker entered Front-End Fraud Unit Investigative Findings (Exhibit M-11) to the effect that the Defendant's two children had been living in [REDACTED] with their paternal grandmother since October 2014.
- 4) The Department's representative completed a Food Stamp (SNAP) Claim Determination Form (Exhibit M-2), and calculated that the Defendant received an overissuance of SNAP benefits in the amount of \$1268 for the months of February 2015 through May 2015, because she did not report her children lived with their grandmother in [REDACTED]

APPLICABLE POLICY

WV Income Maintenance Manual (WV IMM), Chapter 8, §8.2 provides that in order to receive SNAP benefits in West Virginia, that recipient must live within the borders of West Virginia.

WV IMM Chapter 20, §20.2.C.2 provides that once an IPV (Intentional Program Violation) is established, a disqualification penalty is imposed on the Assistance Group members who committed the IPV. The penalties are as follows: 1st Offense – 1 year disqualification; 2nd Offense – 2 years disqualification; 3rd Offense – permanent disqualification.

Pursuant to the Code of Federal Regulations 7 CFR Section 273.16, an Intentional Program Violation shall consist of having intentionally: 1. Made a false or misleading statement, or misrepresented, concealed or withheld facts; or 2. Committed any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system access device.

DISCUSSION

The Department's representative submitted sufficient evidence from the Front-End Fraud Unit to prove that the Defendant's two children lived with their grandmother in [REDACTED] from February through May 2015. She submitted an order from the [REDACTED], Circuit Court (Exhibit M-12), granting the children's grandmother temporary custody of the children. The order, dated February 16, 2015, states in the "Findings" section that the children have lived with their grandmother since October 2014. She submitted an attendance verification form from [REDACTED], Public Schools (Exhibit M-14), indicating the children transferred to [REDACTED] in October, 2014. Also, she submitted an attendance verification form signed by a secretary at [REDACTED] indicating the children began attending school there on October 6, 2014.

Evidence clearly demonstrates that the Defendant reported her children lived with her on a January 2015 benefit review, when they lived with their grandmother in [REDACTED]. Because she did not report that her children no longer lived with her, she received \$1268 in SNAP benefits to which she was not entitled.

CONCLUSIONS OF LAW

- 1) Pursuant to the Code of Federal Regulations and Common Chapters Manual, the Defendant made a false or misleading statement, or misrepresented, concealed or withheld facts, in order to receive SNAP benefits to which she was not legally entitled.
- 2) The Department presented clear and convincing evidence that the Defendant committed an Intentional Program Violation by not reporting her children did not live in her household during the period of February 2015 through May 2015, in violation of WV IMM §1.2.E. The Department must impose a disqualification penalty.
- 3) The disqualification for a first offense IPV is one year.

DECISION

It is the ruling of the Hearing Officer that the Defendant committed an Intentional Program Violation. She will be disqualified from participating in SNAP for one year, beginning in November 2015.

ENTERED this 21st Day of September 2015.

Stephen M. Baisden
State Hearing Officer