



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
P.O. Box 1247
Martinsburg, WV 25402

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

September 15, 2015

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 15-BOR-2706

Dear [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,

Lori Woodward
State Hearing Officer
Member, State Board of Review

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

cc: Andrew LaCara, Repayment Investigator

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

██████████,

Defendant,

v.

Action Number: 15-BOR-2706

**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 August 3, 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 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 12 months.

At the hearing, the Department appeared by Andrew LaCara, Repayment Investigator. The Defendant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- D-1 West Virginia Department of Health and Human Resources Supplemental Nutrition Assistance Program (SNAP) Application and Rights and Responsibilities, signed and dated May 2, 2013
- D-2 Print-out of Case Comments from Defendant's eRAPIDS case from October 2012 – August 2014
- D-3 Printout from Molina Medicaid Solutions from December 12, 2012 – July 2013
- D-4 ██████████, WV Student Enrollment form for School Year 2012 through 2015
- D-5 SNAP review form, inROADS, dated October 15, 2013

- D-6 SNAP review form, inROADS, dated March 26, 2014
- D-7 SNAP application form, inROADS, dated May 8, 2014
- D-8 Food Stamp Claim Determination form, es-fs-5, May 2, 2013 – July 2013, November 2013 – April 2014, June 2014 – July 2014
- D-9 Advance Notice of Administrative Disqualification Hearing Waiver, ig-ifm-ADH Ltr, dated July 21, 2015

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. A request for an Administrative Disqualification Hearing was received by the Board of Review from the West Virginia Department of Health and Human Resources (Movant) on August 3, 2015. The Movant contends that the Defendant has committed an Intentional Program Violation (IPV) and recommends that the Defendant be disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP) for a period of 12 months.
2. The basis upon which the Movant alleges the Defendant committed an IPV is that she withheld the fact on several applications/reviews that her son, [REDACTED] was out of state in a residential facility from December 2012 through July 2013 and again from October 2013 to July 2014.
3. On May 2, 2013, the Defendant applied for SNAP benefits indicating that she and her two children, [REDACTED] and [REDACTED] lived in the household and that they buy/cook food together. (Exhibit D-1) She completed her SNAP interview with the Department worker (worker) on May 3, 2013. (Exhibit D-2) Based on the information the Defendant provided, SNAP benefits were approved.
4. On October 31, 2013, the Defendant completed an interview for her SNAP recertification. At that time, she reported her two children, [REDACTED] and [REDACTED] were still members of her household. Based on the information the Defendant provided, SNAP benefits were recertified. (Exhibits D-2 and D-5)
5. The Defendant completed a SNAP review on April 11, 2014, with her inROADS form submitted on March 26, 2014, again reporting both children, [REDACTED] and [REDACTED] were members of her household. (Exhibits D-2 and D-6) It is noted that the Defendant was found to be over the income level for continued benefits.

6. The Defendant reapplied for SNAP benefits through inROADS on May 8, 2014, completing her interview on May 14, 2014. She reported that her household members consisted of herself, [REDACTED] and [REDACTED] (Exhibits D-2 and D-7)
7. The Defendant's son, [REDACTED] resided at the [REDACTED], [REDACTED] from December 12, 2012 until July 2013. All of his meals were provided by the facility.
8. The Defendant's son, [REDACTED] resided at [REDACTED], [REDACTED] from October 28, 2013 until July 2014. All of his meals were provided by the facility.
9. The Defendant never reported to the Movant that [REDACTED] was in an out of state facility on any of the applications, reviews, or interviews.

APPLICABLE POLICY

Pursuant to the Code of Federal Regulations 7 CFR §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.

West Virginia Income Maintenance Manual (IMM) §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.

IMM §8.2 specifically states that an individual must not be a resident of a public or private institution. These are defined as follows: Public Institution - Institution which provides shelter, custody and care and for which a governmental unit has responsibility or exercises administrative control. Private Institution - Non-governmental institution which provides shelter, custody and care and which is required by State law to have a license to operate. The individual is considered a resident of an institution when the institution provides the majority of their meals, which is defined as over 50% of three meals daily, as part of the institution's normal services, and the institution has not been authorized to accept SNAP benefits. This section specifically notes that a school dormitory is considered an institution. Therefore, any student who resides in a school dormitory and receives the majority of his meals from the institution's meal plan is ineligible to participate in SNAP. This includes, but is not limited to, colleges and military and boarding schools, even when the student returns home for weekends. [Emphasis added]

IMM §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.

IMM §20.2.C.2 requires that once an IPV has been established, a disqualification period must be imposed on the AG member(s) who committed the violation.

DISCUSSION

The Defendant does not dispute that her son, [REDACTED] was in the out-of-state facilities during the time periods as mentioned above, with his meals being provided by those facilities. She contended however, because she never lost custody of [REDACTED] had to provide all snacks for him, and because he returned home every two weeks, she still considered him as a member of her household. Therefore, she proffered that because of those reasons she did not report him out of her household at her applications and reviews.

Policy states, however, that an applicant or client has the affirmative duty to report accurate information regarding his or her circumstances so that the worker can make a correct decision regarding eligibility. The Defendant failed to do this. Had she failed to provide this information only once, perhaps her reasoning would be plausible. However, she had at least three separate opportunities to inform the worker that her son was out of state in a residential facility, thus providing the worker with the accurate circumstances surrounding his absence so that a correct decision could be made regarding his eligibility. Her withholding this information on so many occasions implies intent to conceal the facts in order to receive more SNAP benefits than she would have been entitled.

The Department established by clear and convincing evidence the intent of the Defendant to provide false statements to receive SNAP benefits for which she would not have otherwise been entitled. By falsely reporting her household composition, the Defendant caused an over-issuance of SNAP benefits.

CONCLUSIONS OF LAW

- 1) The Defendant's intentional false statement that her son, [REDACTED] was a member of her household meets the definition of an Intentional Program Violation.
- 2) Having committed an Intentional Program Violation and this being the Defendant's first offense, the Defendant is subject to a 12-month disqualification from SNAP.

DECISION

It is the ruling of the State Hearing Officer that the Defendant committed an Intentional Program Violation. The Defendant will be disqualified from participation in SNAP for a period of twelve (12) months to begin effective October 1, 2015.

ENTERED this 15th day of September 2015.

**Lori Woodward
State Hearing Officer**