



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

October 13, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-2768

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] County DHHR

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

██████████,

Defendant,

v.

Action Number: 15-BOR-2768

**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 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 September 29, 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 representative was sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 Hearing Summary
- M-2 SNAP Claim Determination Form
- M-3 SNAP Issuance History 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 June 2014-June 2015
- M-8 SNAP Review Form dated February 4, 2014
- M-9 Medicaid Review Form dated March 31, 2014

M-10	Notices of Decision dated March 12, 2014, August 26, 2014 and March 11, 2015
M-11	Narrative Screen Prints
M-12	Initial Order Upon Filing of Petition dated November 25, 2013
M-13	Order dated December 13, 2013
M-14	Order dated July 28, 2014
M-15	Benefit Recovery Referral Screen Print
M-16	Appointment Letter dated July 21, 2015
M-17	Advance Notice of Administrative Disqualification Hearing Waiver dated July 29, 2015
M-18	West Virginia Income Maintenance Manual §1.2E
M-19	West Virginia Income Maintenance Manual §9.1A
M-20	West Virginia Income Maintenance Manual §20
M-21	Title 7 Code of Federal Regulations §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 August 19, 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 completed a SNAP eligibility review (M-8) on February 4, 2014. She reported that her household consisted of herself and her daughter, [REDACTED]. SNAP benefits were recertified based on the information provided.
- 4) The Defendant completed a Medicaid review (M-9) on March 31, 2014, and reported no changes in her household composition.
- 5) The Defendant completed a SNAP review (M-7) on March 10, 2015, at which time she reported herself and her daughter, [REDACTED] as residing in her home.
- 6) The Department verified through court order (M-12) from the [REDACTED] County West Virginia Family Court that the Defendant's daughter had been placed in the Department's custody on November 25, 2013. The Defendant's parental rights (M-14) of [REDACTED] were terminated on July 25, 2014.

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 §9.1(A) states that the SNAP AG must include all individuals who both live together and purchase and prepare their meals together.

DISCUSSION

The Department provided clear and convincing evidence that the Defendant committed an Intentional Program Violation by making false statements during SNAP eligibility reviews by reporting that her daughter was residing in her home. The Defendant's daughter was removed from the Defendant's custody shortly after her birth in November 2013, prior to the Defendant's February 2014 and March 2015 SNAP reviews.

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.

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 November 2015

ENTERED this 13th day of October 2015

**Kristi Logan
State Hearing Officer**