



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
2699 Park Avenue, Suite 100  
Huntington, WV 25704

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

November 30, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 15-BOR-3100

Dear Mr. [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,

Todd Thornton  
State Hearing Officer  
Member, State Board of Review

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

cc: Fred Francis, Department Representative

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

[REDACTED]

**Defendant,**

v.

**Action Number: 15-BOR-3100**

**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 [REDACTED] requested by the Movant on September 23, 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 November 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 Fred Francis. The Defendant was notified of the hearing and failed to appear, resulting in the hearing being held in the Defendant's absence. All witnesses were sworn and the following documents were admitted into evidence.

**Movant's Exhibits:**

- D-1            SNAP application documents, dated September 15, 2009
- D-2            SNAP application documents, dated January 6, 2010
- D-3            Notarized statement from Defendant, dated August 7, 2009
- D-4            Statement from Defendant's mother, dated April 30, 2010
- D-5            School attendance verification from [REDACTED]
- D-6            School attendance verification from [REDACTED]

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 Defendant received an overissuance of SNAP benefits between September 2009 and April 2010, totaling \$1,096.
- 2) The overissuance was based on the inclusion of the Defendant's daughter [REDACTED] in his assistance group (AG) when in fact she was not residing with him.
- 3) The Movant presented documentation to show that [REDACTED] transferred out of school in the vicinity of the Defendant (Exhibit D-5) to a school with the Defendant's parents listed as the sole guardians and emergency contacts (Exhibit D-6).
- 4) The Defendant signed a document in August 2009 (Exhibit D-3) indicating he was giving "all decision making rights" regarding his daughter [REDACTED] to his parents.
- 5) The Defendant's mother signed a statement (Exhibit D-4) indicating the Defendant's daughter [REDACTED] had been residing with her since August 2009.
- 6) The Defendant's daughter was included in his SNAP AG based on him reporting his daughter as residing with him on two SNAP applications submitted during this time period (Exhibits D-1 and D-2).
- 7) The Department contended the action of the Defendant to falsely report an individual in his household constitutes an Intentional Program Violation (IPV), and requested this hearing for the purpose of making that determination.
- 8) The Defendant has no prior IPV offenses.

### **APPLICABLE POLICY**

The Code of Federal Regulations, 7 CFR §273.16(c) defines an IPV as having intentionally "made a false or misleading statement" for purposes of SNAP eligibility.

The West Virginia Income Maintenance Manual, Chapter 9.1.A.2.h, indicates a first offense IPV results in a one year disqualification from SNAP.

### **DISCUSSION**

The Defendant did not appear for the hearing, and as such could not dispute the evidence presented by the Department.

The facts presented by the Department clearly show an action that meets the codified IPV definition. The Defendant made false statements regarding his household composition, specifically stating that his daughter was residing with him when in fact she was not. The false statements, as well as the duration and dollar amount of the resulting overissuance are sufficient to indicate intent.

### **CONCLUSION OF LAW**

Because the Defendant has committed a first-offense IPV, the Department must disqualify the Defendant from receipt of SNAP benefits for one year.

### **DECISION**

The proposed IPV disqualification of the Defendant is upheld. The Defendant will be disqualified from receipt of SNAP benefits for a period of one year, beginning January 1, 2016.

**ENTERED this \_\_\_\_ Day of November 2015.**

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**Todd Thornton  
State Hearing Officer**