



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

November 10, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-3101

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

cc: Rusty Udy, [REDACTED] County DHHR

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

██████████,

Defendant,

v.

Action Number: 15-BOR-3101

**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 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 October 27, 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 should thus be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Department appeared by Rusty Udy, 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 Calculation Determination
- M-3 SNAP Claim Calculation Sheets
- M-4 SNAP Issuance History-Disbursement Screen Prints
- M-5 SNAP Allotment Determination Screen Prints
- M-6 Individual Participation History Screen Prints
- M-7 Fraud Referral from Bureau for Child Support Enforcement and School Enrollment Verification from ██████████ County Board of Education and ██████████ County Board of Education
- M-8 Case Members History Screen Print

- M-9 Case Comments from January 2013-November 2014
- M-10 SNAP Review Form dated December 20, 2012, SNAP Application dated June 26, 2013 and SNAP Review Form dated November 20, 2013
- M-11 Advance Notice of Administrative Disqualification Hearing Waiver dated September 9, 2015
- M-12 West Virginia Income Maintenance Manual §§1.2E and 20.2
- M-13 Code of Federal Regulations Title 7 §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 by certified mail on September 24, 2015. The Defendant signed for the letter on September 28, 2015, but 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 review (M-10) on December 20, 2012. She reported that her household consisted of herself and four (4) children. SNAP benefits were recertified based on the information provided.
- 4) The Defendant reapplied for SNAP benefits on June 26, 2013, and completed a SNAP eligibility review on November 27, 2013 (M-9 and M-10). She reported no changes in her household composition.
- 5) The Department verified (M-7) that two (2) of the Defendant's children, [REDACTED] and [REDACTED] had been residing with their grandmother in [REDACTED] since January 2013.

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 §9.1A states that the SNAP AG consists of individuals who both reside together and purchase and prepare their meals together.

DISCUSSION

The Defendant made false statements at her June 2013 SNAP application and November 2013 review by reporting [REDACTED] and [REDACTED] as residing in her home. [REDACTED] and [REDACTED] had been living with their grandmother since January 8, 2013, at which time they were enrolled in the [REDACTED] school system.

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 December 2015.

ENTERED this 10th day of November 2015

**Kristi Logan
State Hearing Officer**