



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-3104

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: Rusty Udy, [REDACTED] County DHHR

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

██████████,

Defendant,

v.

Action Number: 15-BOR-3104

**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 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 Determination
- M-3 SNAP Claim Calculation Sheets
- M-4 SNAP Issuance History-Disbursement Screen Prints
- M-5 SNAP Allotment Determination Screen Prints
- M-6 Case Members History Screen Print
- M-7 Case Comments from December 2013-February 2015

- M-8 Housing Assistance Payment Program Contract and Lease Amendments dated June 30, 2014 and April 13, 2015, Verification of Rent from Ray Investments dated April 13, 2015 and Rent Receipt dated January 30, 2015
- M-9 SNAP Review Form signed April 24, 2014
- M-10 Notices of Decision dated December 6, 2013 and May 6, 2014
- M-11 Waiver of Administrative Disqualification Hearing signed September 4, 2015
- M-12 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 shelter expenses, 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 September 24, 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 application (M-7) on December 3, 2013. She reported that she paid rent of \$575 monthly. SNAP benefits were approved based on the information provided.
- 4) The Defendant completed SNAP eligibility reviews (M-7 and M-9) on May 5, 2014, and November 13, 2014. She reported no changes in her rent amount.
- 5) The Department verified that the Defendant had participated (D-8) in the Housing Assistance Program since September 2013. The total amount of rent paid to the Defendant's landlord was \$582 monthly, and of this amount the Defendant's obligation was only \$213 monthly.

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 §10.4B(7) states that shelter expenses are only allowed if the AG is obligated to pay with the resources of the AG.

DISCUSSION

The Department provided clear and convincing evidence that the Defendant committed an Intentional Program Violation by making false statements during her SNAP application and subsequent eligibility reviews regarding her rent obligation. The Defendant had been receiving housing assistance prior to the initial SNAP application in December 2013 and was only responsible to pay for a portion of the total rent amount.

CONCLUSIONS OF LAW

Through the willful misrepresentation by the Defendant regarding her shelter expenses, 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 December 2015

**Kristi Logan
State Hearing Officer**