



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 24, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-3127

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-3127

**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 25, 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 12, 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 Determination
- M-3 SNAP Claim Calculation Sheets
- M-4 SNAP Issuance History-Disbursement Screen Print
- M-5 SNAP Allotment Determination Screen Prints
- M-6 Non-Financial Eligibility Determination Screen Prints
- M-7 Case Members History Screen Print

- M-8 Case Comments from May 2014-May 2015
- M-9 Bureau for Employment Programs Employee Wage Data and Employment Verification from [REDACTED]
- M-10 SNAP Review Form signed December 3, 2014
- M-11 Advance Notice of Administrative Disqualification Hearing Waiver dated August 21, 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 income, 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 29, 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 on December 4, 2014. She reported that she had no income. SNAP benefits were recertified based on the information provided.
- 4) The Department discovered that the Defendant was employed with [REDACTED] [REDACTED] at the time of her December 2014 SNAP review. According to the employment verification obtained from [REDACTED], the Defendant received regular paychecks from November 2014 through April 2015.

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.

DISCUSSION

The Defendant made a false statement at her December 2014 SNAP review by reporting that she had no income, when in fact she was employed and receiving regular paychecks.

CONCLUSIONS OF LAW

Through the willful misrepresentation by the Defendant regarding her income, 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 January 2016.

ENTERED this 24th day of November 2015

**Kristi Logan
State Hearing Officer**