



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

January 27, 2015

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 14-BOR-3402

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,

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**

██████████,

Defendant,

v.

Action Number: 14-BOR-3402

**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 October 16, 2014. 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 January 15, 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 document, unsigned; Document for Protection of Application Date; Rights and Responsibilities form
- D-2 SNAP application document and Rights and Responsibilities form, signed June 21, 2001
- D-3 SNAP application document and Rights and Responsibilities form, signed December 17, 2001
- D-4 SNAP application document and Rights and Responsibilities form, signed April 30, 2002
- D-5 Statement from ██████████, dated July 16, 2002
- D-6 Statement from ██████████, dated July 16, 2002
- D-7 Income verification from ██████████, dated December 2, 2002 (date completed)

- D-8 Screen print of Employee Wage Data
- D-9 Income verification from [REDACTED], dated November 3, 2003 (date completed)
- D-10 Income verification from [REDACTED], dated October 27, 2003 (date completed)
- D-11 Screen print of Employee Wage Data
- D-12 SNAP claim determination forms

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 from August 2000 through October 2002 totaling \$5865 (Exhibit D-12).
- 2) The overissuance was based on the exclusion of [REDACTED] and his income from the calculation of the SNAP benefits for the Defendant's household.
- 3) The Defendant signed SNAP application or review documents listing [REDACTED] as the absent parent of some of her children. Accordingly, these documents do not list Mr. [REDACTED] as present in her home or any of Mr. [REDACTED] income. (Exhibits D-2, D-3, and D-4. Exhibit D-1 is not considered because the Defendant signed a form protecting her application date in lieu of the application itself, which could not be printed on the interview date.)
- 4) The Movant presented documentation to show Mr. [REDACTED] resided in the Defendant's home. A statement (Exhibit D-5) from [REDACTED], dated July 16, 2002, indicated that he had been a neighbor to the Defendant "for two years," and that Mr. [REDACTED] resided with the Defendant "the entire time." A statement (Exhibit D-6) from [REDACTED], also dated July 16, 2002, indicated she had been a neighbor to the Defendant "for [four] years," and that Mr. [REDACTED] resided with the Defendant "the entire [four] years."
- 5) The Movant presented documentation to show Mr. [REDACTED] was employed while residing in the Defendant's home. (Exhibits D-7, D-8, D-9, D-10, and D-11)
- 6) The Movant contended the action of the Defendant to withhold information regarding Mr. [REDACTED] presence in her household and his income from employment constitutes an Intentional Program Violation (IPV), and requested this hearing for the purpose of making that determination.
- 7) 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 “concealed or withheld facts” 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.

The West Virginia Income Maintenance Manual, Chapter 9.1.A.1.b(2), reads, “Natural or adopted children and stepchildren who are under 22 years of age and who live with a parent must be in the same [assistance group] as that parent.”

DISCUSSION

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

Because the Defendant and [REDACTED] share common children, their shared residence would necessitate a SNAP assistance group that considers the eligibility factors of both parents, including income. The Movant established the fact that Mr. [REDACTED] resided with the Defendant, as well as his income from employment.

For these reasons, the facts presented by the Movant clearly show an action that meets the codified IPV definition. The Defendant made false statements regarding her household composition and income. The multiple false statements, as well as the duration and dollar amount of the resulting overissuance are sufficient to indicate intent.

CONCLUSION OF LAW

Because the actions of the Defendant constitute an IPV, the Department must disqualify the Defendant from receipt of SNAP benefits, and because the IPV is a first offense the disqualification period is 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 with March 2015.

ENTERED this ____ Day of January 2015.

**Todd Thornton
State Hearing Officer**