



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

January 21, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 14-BOR-3605

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: Cassie Burns, Repayment Investigator

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

██████████,

**Defendant,**

v.

**Action Number: 14-BOR-3605**

**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 November 6, 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 8, 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 Movant appeared by Cassie Burns, Repayment Investigator. The Movant's representative was sworn and the following documents were admitted into evidence.

**Movant's Exhibits:**

- M-1 Code of Federal Regulations – 7 CFR §273.16
- M-2 SNAP Claim Determinations, SNAP Claim Calculations Sheets, and SNAP Allotment Determination Screens from RAPIDS Computer System
- M-3 SNAP Review e-signed on September 13, 2012
- M-4 SNAP Review e-signed on March 1, 2013
- M-5 Legally Binding Statement dated March 25, 2013
- M-6 SNAP Review dated March 30, 2014
- M-7 Combined Application and Review Form and Rights and Responsibilities dated July 27, 2012
- M-8 Application for West Virginia School Clothing Allowance dated July 27, 2012
- M-9 Application for Adult/Family Medicaid dated February 22, 2013
- M-10 Case Comments from July 2012 through July 2014
- M-11 Employer Verification from ██████████ for ██████████

- M-12 WV Income Maintenance Manual §1.2 E
- M-13 WV Income Maintenance Manual §20.2
- M-14 WV Income Maintenance Manual §20.6
- M-15 Advance Notice of Administrative Disqualification Hearing Waiver dated July 1, 2014

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 income and requested that a SNAP penalty of 12 months be imposed against her.
- 2) The Defendant was notified of the hearing by scheduling order mailed on November 18, 2014. The Defendant failed to appear 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 SNAP redetermination forms (M-3, M-4 and M-6) on September 13, 2012, March 1, 2013, and March 30, 2014. On each redetermination form the Defendant listed her household income consisted of Unemployment Compensation Income and earned income for her only. When questioned about earned income for her brother, [REDACTED], the Defendant submitted a statement (M-5) signed Mr. [REDACTED] on March 25, 2013, attesting that he was not employed.
- 4) The Department verified with Mr. [REDACTED] employer (M-11) that he had been working since July 2012. Mr. [REDACTED] received regular income from [REDACTED] from July 2012 through August 2014. It should be noted here that Mr. [REDACTED] was on military leave from September 2013 through March 2014, and did not receive earnings from [REDACTED] during this time period.
- 5) The Department contended that by falsely reporting her household income during multiple SNAP reviews, the Defendant received \$4,477 (M-2) in SNAP benefits that she was not entitled to receive.

## **APPLICABLE POLICY**

Pursuant to the Code of Federal Regulations 7 CFR §273.16, an Intentional Program Violation shall consist of having intentionally: 1) Made a false or misleading statement, or misrepresented, concealed or withheld facts; or 2) Committed any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system access device.

West Virginia Income Maintenance Manual §1.2 E reads that it is the client's responsibility to provide accurate information regarding his circumstances so that a correct decision about eligibility can be made. Failure to fulfill this obligation may result in the denial of an application, closure of an active Assistance Group (AG), removal of an individual from the AG, and/or a repayment/reduction in benefits.

West Virginia Income Maintenance Manual §20.2 C(2) requires that once an IPV has been established, a disqualification period must be imposed on the 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 Department provided clear and convincing evidence that the Defendant made false statements during SNAP redeterminations regarding her household's income. The Defendant reported no income for her brother when he had been working consistently since July 2012.

## **CONCLUSIONS OF LAW**

Through the willful misrepresentation by the Defendant regarding her household 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 the applicable 12-month penalty will be applied to the Defendant.

## **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 March 2015.

**ENTERED this 21<sup>st</sup> day of January 2015**

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**Kristi Logan  
State Hearing Officer**