



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
P.O. Box 1247  
Martinsburg, WV 25402

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

January 21, 2015



RE: [REDACTED] v. WV DHHR  
ACTION NO.: 14-BOR-3609

Dear Mr. [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,

Lori Woodward  
State Hearing Officer  
Member, State Board of Review

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

cc: Cassandra Burns, RI

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

██████████,

**Defendant,**

v.

**ACTION NO.: 14-BOR-3609**

**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 7, 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 Cassandra Burns, Repayment Investigator, Investigations and Fraud Management (IFM). Defendant failed to appear. Ms. Burns was sworn and the following documents were admitted into evidence.

**Movant's Exhibits:**

- D-1** ES-FS-5, Food Stamp Claim Determination
- D-2** Combined Application and Review Form for Financial, Medical, and Supplemental Nutrition Assistance Program (SNAP), and Rights & Responsibilities signed and dated February 28, 2013
- D-3** Computer printout of the case comments in Defendant's benefits eRAPIDS case from September 10, 2012 through February 28, 2013
- D-4** ██████████ Employment Data and Wage History for Defendant from October 5, 2012 through October 3, 2014

**D-5** Advance Notice of Administrative Disqualification Hearing Waiver, dated October 16, 2014

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of the witness and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

**FINDINGS OF FACT**

- 1) The Investigations and Fraud Management (IFM) unit of the West Virginia Department of Health and Human Resources (Department) is alleging an act of Intentional Program Violation (IPV) in the Defendant's case due to his withholding information about his earned income affecting his eligibility for SNAP.
- 2) The Board of Review sent to the Defendant notice of the Administrative Disqualification Hearing on December 2, 2014, by US Postal Service first class mail. The notice was sent to [REDACTED]. This is identified by Department's representative as being Defendant's current mailing address on file. The hearing was scheduled to begin at 9:00 a.m. on January 7, 2015, and as of 9:15 a.m., the Defendant failed to appear. As set forth in regulations (7 CFR §273.16(e)(4)), and State Policy (West Virginia Department of Health and Human Resources' Common Chapters Manual, 740.20), the hearing convened at 9:15 a.m., and was conducted without the Defendant in attendance.
- 3) Defendant completed a SNAP benefit review on February 28, 2013, reporting he was receiving Unemployment Compensation Income (UCI) from the state of [REDACTED] but reported no earned income in the household. (Exhibit D-2) Based upon the reported information, the Defendant's SNAP benefits were re-certified from March 2013 to August 2013.
- 4) The Department discovered that the Defendant was employed with [REDACTED], receiving regular income from this employment throughout the SNAP certification period, March 2013 through August 2013. (Exhibit D-4)
- 5) The Defendant's act of intentionally withholding his employment information at the February 2013 SNAP redetermination resulted in his receiving an over-issuance of SNAP benefits during the period of March 2013 through August 2013. (Exhibits D-1)

**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 (IMM) §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.

IMM §20.2.C.2 requires that once an IPV has been established, a disqualification period must be imposed on the AG member(s) who committed the violation.

IMM §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 clearly established that the Defendant withheld information regarding earnings from his employment. The Defendant omitted this information on his February 28, 2013 SNAP review. The Department established by clear and convincing evidence the intent of the Defendant to provide false statements to receive SNAP benefits for which he would not have otherwise been entitled. By withholding the reporting of household income, the Defendant caused an over-issuance of SNAP benefits.

### **CONCLUSIONS OF LAW**

- 1) The Defendant's intentional false statements and withholding of information meet the definition of an Intentional Program Violation.
- 2) Having committed an Intentional Program Violation and this being the Defendant's first offense, the Defendant is subject to a 12-month disqualification from SNAP.

### **DECISION**

It is the ruling of the State Hearing Officer that the Defendant committed an Intentional Program Violation. The Defendant will be disqualified from participation in SNAP for a period of twelve (12) months to begin effective March 1, 2015.

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

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**Lori Woodward, State Hearing Officer**