



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 28, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 14-BOR-3612

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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

cc: Cassandra Burns, Department Representative

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

████████████████████,

Defendant,

v.

Action Number: 14-BOR-3612

**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 21, 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. The Defendant was notified of the hearing but failed to appear. All witnesses were sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- D-1 Code of Federal Regulations, 7 CFR §273.16
- D-2 SNAP claim determination form and supporting documentation
- D-3 Email and documentation of Defendant's ██████████ SNAP case
- D-4 SNAP application documents dated November 10, 2010
- D-5 Screen print of comments from the Movant's data system regarding the Defendant's case, entry dates November 10, 2010 through December 13, 2011
- D-6 West Virginia Income Maintenance Manual, Chapter 1.2

- D-7 West Virginia Income Maintenance Manual, Chapter 20.2
- D-8 West Virginia Income Maintenance Manual, Chapter 20.6
- D-9 Administrative Disqualification Hearing documents

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 November 2010 to October 2011 totaling \$1814. (Exhibit D-2)
- 2) The overissuance was based on the Defendant's simultaneous receipt of SNAP benefits in [REDACTED] and West Virginia. (Exhibit D-3)
- 3) The Defendant's simultaneous receipt of SNAP benefits in two states was due to the fact that the Defendant did not report his active SNAP case in [REDACTED] when he applied for SNAP in West Virginia. His application document dated November 10, 2010, reports a negative response to the question "Has this person received SNAP benefits from another State?" (Exhibit D-4, page 2)
- 4) The Department presented verification of the Defendant's SNAP benefits (occasionally referred to as "Food Stamps" or "food assistance") in [REDACTED] (Exhibit D-3). The Defendant started to receive SNAP benefits from [REDACTED] on September 7, 2010, and was receiving them at the time he applied for SNAP benefits in West Virginia.
- 5) The Department contended the action of the Defendant to report falsely his receipt of SNAP benefits in another state constitutes an Intentional Program Violation (IPV), and requested this hearing for the purpose of making that determination.
- 6) 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 "made a false or misleading statement, or misrepresented, 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 1.2.E, reads “the client’s responsibility is to provide information about his circumstances so the Worker is able to make a correct decision about his eligibility,” and indicates that failure to fulfill this obligation may result in denial, closure, or repayment of benefits.

The West Virginia Income Maintenance Manual, Chapter 8.2.A.1, reads “When an individual, who is receiving SNAP benefits in another state, establishes residence in West Virginia and applies for benefits the Worker must determine when SNAP benefits in the other state were stopped. The individual is eligible in West Virginia for the month following the month he last received benefits in the former state of residence, if otherwise eligible.”

DISCUSSION

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

Testimony and evidence clearly show an action that meets the codified IPV definition. Because the Defendant did not provide information about his active SNAP benefits received in the State of [REDACTED] benefit closure in [REDACTED] could not be coordinated with benefit approval in West Virginia in a way that prevented duplicate issuance. The dollar amount of the claim and the Defendant’s duplicate receipt of SNAP benefits clearly indicate intent.

CONCLUSION OF LAW

Because the Defendant has committed a first-offense IPV, the Department must disqualify the Defendant from receipt of SNAP benefits for 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**