



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 30, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 14-BOR-3615

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: Cassandra Burns, Department Representative

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

██████████,

Defendant,

v.

Action Number: 14-BOR-3615

**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 (ADH) 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 appeared *pro se*. 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 Statement from ██████████, dated May 8, 2014
- D-4 Enrollment verification from ██████████, dated May 9, 2014
- D-5 Enrollment verification from ██████████, dated October 14, 2014
- D-6 SNAP application documents, dated April 4, 2014
- D-7 SNAP application documents, dated October 2, 2014
- D-8 Statement from ██████████, dated July 3, 2014
- D-9 West Virginia Income Maintenance Manual, Chapter 1.2

- D-10 West Virginia Income Maintenance Manual, Chapter 20.2
- D-11 West Virginia Income Maintenance Manual, Chapter 20.6
- D-12 ADH 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 April 2014 to October 2014 in the amount of \$4355 (Exhibit D-2).
- 2) The overissuance was due to the fact the Defendant did not meet the SNAP eligibility requirement of residence “within the borders of West Virginia,” making the Defendant totally ineligible for SNAP benefits received during the period in question.
- 3) The Defendant completed a SNAP application on April 4, 2014, reporting an address in the State of West Virginia. (Exhibit D-6)
- 4) The Defendant completed a SNAP application on October 2, 2014, reporting an address in the State of West Virginia. (Exhibit D-7)
- 5) The Movant presented school enrollment verification (Exhibits D-4 and D-5) regarding the Defendant’s son, [REDACTED]. The Defendant’s son transferred out of [REDACTED] on April 1, 2014, and into [REDACTED] on April 2, 2014. [REDACTED] is located in West Virginia and [REDACTED] is located in [REDACTED]. [REDACTED] provided the verification on October 14, 2014, and indicated that the Defendant’s son [REDACTED] had not transferred out since transferring in to their school in April. [REDACTED] additionally provided the Defendant’s address (as the listed parent) in [REDACTED].
- 6) The Defendant reported her son [REDACTED] as present in her home on both the April and October 2014 applications. (Exhibits D-6 and D-7)
- 7) The Defendant testified that she temporarily left the residence she reported on her April 2014 application while the trailer was being remodeled. She testified she thought the move was temporary. She testified she let her children start school in [REDACTED]. She testified she reported her address change when it occurred. Cassandra Burns, representative for the Movant, testified there was no indication that such a change had been reported, based on her review of the case.

- 8) The Department contended the action of the Defendant to falsely report her residence in the State of West Virginia constitutes an Intentional Program Violation (IPV), and requested this hearing for the purpose of making that determination.
- 9) 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” 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, reads “To be eligible to receive benefits, the client must meet the eligibility requirement of residence. The client must live within the borders of West Virginia.”

DISCUSSION

The Movant requested this hearing to determine if the Defendant committed an IPV and should be disqualified from SNAP eligibility.

Testimony and evidence clearly show actions that meet the codified IPV definition.

School records show the Defendant’s son was attending school in [REDACTED] at the time of both her April 2014 and her October 2014 SNAP applications. These were not conditions that changed within a certification period for SNAP, but rather the conditions existing at the time of both applications.

Statements from the Defendant’s neighbor and her landlord were not given weight due to their ambiguity and internal contradictions. The testimony of the Defendant was also unclear regarding dates, but did confirm that she moved from the address provided on her applications and enrolled her children in a school in [REDACTED]. Verification provided from the schools were specific, however, and placed the Defendant – as well as her son – in [REDACTED] at a time that she reported to the Movant she was actually residing in West Virginia. The two false statements are sufficient to 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**