



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

February 4, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 14-BOR-3619

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-3619

**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 29, 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 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 Code of Federal Regulations, 7 CFR §273.16
- D-2 SNAP claim determination form and supporting documentation
- D-3 Statement from ██████████, dated October 11, 2012
- D-4 Copy of an Electronic Benefits Transfer (EBT) card
- D-5 Promissory note signed by the Defendant on September 22, 2012
- D-6 Statement from ██████████, dated November 26, 2012
- D-7 Receipt for EBT card, dated November 26, 2012
- D-8 SNAP application documents, dated June 25, 2012
- D-9 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) Defendant received an overissuance of SNAP benefits from September 2012 through November 2012, totaling \$540 (Exhibit D-2).
- 2) The overissuance was based on the dollar amount of SNAP benefits improperly used by the Defendant.
- 3) Investigators for the Department obtained two written statements from [REDACTED] (Exhibits D-3 and D-6) detailing the Defendant's improper use of SNAP benefits. Mr. [REDACTED] reported that the Defendant owed him \$270, wrote a note promising to repay him this amount (Exhibit D-5), and tried on two separate occasions to repay this debt by providing Mr. [REDACTED] SNAP EBT cards. Mr. [REDACTED] returned the EBT cards to the Department (Exhibits D-4 and D-7). The \$540 SNAP claim is based on these two instances of SNAP trafficking in the amount of \$270 each.
- 4) The Defendant signed a June 2012 Rights and Responsibilities form (Exhibit D-8) as part of the SNAP application and review process. This form includes a series of statements intended to explain program requirements for recipients. The statements include checkboxes to be marked yes or no, and the Defendant affirmed her understanding of all statements on the form. Pertinent for the proposed violation is the first statement, which reads "I understand that SNAP benefits are to be used by my family and me to purchase food or seeds. I cannot sell my SNAP benefits or use someone else's benefits for myself. The SNAP benefits will not be used for any other purpose."
- 5) The Department contended the action of the Defendant to use SNAP benefits to pay a debt is outside the intended program purpose, 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 "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).”

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.

DISCUSSION

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

The facts presented by the Department clearly show an action that meets the codified IPV definition. The Defendant attempted to pay an outstanding debt with SNAP benefits. The Defendant signed a document indicating she understood the sole purpose of SNAP benefits is “to purchase food or seeds.”

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 February 2015.

**Todd Thornton
State Hearing Officer**