



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 6, 2015



RE: [REDACTED] v. WV DHHR
ACTION NO.: 14-BOR-3620

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-3620

**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. 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 forms and supporting documentation
- D-3 SNAP application/review document and Rights and Responsibilities form, dated May 14, 2012
- D-4 Application for Low Income Energy Assistance Program (LIEAP), dated February 1, 2013

- D-5 Screen prints of comments regarding the Defendant's case from the Movant's data system, entry dates from May 14, 2012, through May 6, 2014
- D-6 Screen prints of data exchange regarding the Social Security benefits received by the Defendant's children
- D-7 West Virginia Income Maintenance Manual, Chapter 1.2
- D-8 West Virginia Income Maintenance Manual, Chapter 20.2
- D-9 West Virginia Income Maintenance Manual, Chapter 20.6
- D-10 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 June 2012 to February 2014 totaling \$1,313 (Exhibit D-2).
- 2) The overissuance was based on the exclusion of the unearned income of the Defendant's children, specifically Social Security income.
- 3) The Social Security income of the Defendant's children was not included in the calculation of her SNAP benefits because the income was not reported on a SNAP application document (Exhibit D-3) or an application for LIEAP (Exhibit D-4) – a program administered by the Movant – during the period in question. (Eligibility factors reported on a LIEAP application are considered for purposes of ongoing SNAP eligibility.) Both documents are signed by the Defendant and include a statement affirming the information she provided was “true and correct.”
- 4) The Movant presented income verification from the Social Security Administration for the Defendant's children for the period in question (Exhibit D-6).
- 5) The Department contended the failure of the Defendant to accurately report all household income 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.

DISCUSSION

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

The testimony and evidence submitted by the Department clearly shows the actions of the Defendant meets the codified IPV definition. The Defendant made multiple false statements regarding her household income. This, in addition to the duration and dollar amount of the resulting SNAP overissuance, is 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 March 1, 2015.

ENTERED this ____ Day of February 2015.

**Todd Thornton
State Hearing Officer**