



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

April 8, 2015



RE: [REDACTED] v. WV DHHR

ACTION NO.: 14-BOR-3626

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-3626

**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 February 5, 2015.

The matter before the Hearing Officer arises from a request by the Movant 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 Movant appeared by Cassandra Burns. The Defendant appeared *pro se*. Appearing as witnesses for the Defendant were ██████████ and ██████████. 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 thread between West Virginia and ██████████ SNAP fraud investigators, message dates October 7, 2013, through October 16, 2013; Screen prints regarding Defendant's ██████████ SNAP benefits; ██████████ Department of Health & Welfare Application for Assistance, dated March 15, 2012; Additional forms, dated February 22, 2013
- D-4 SNAP application documents (State of West Virginia) dated July 20, 2012
- D-5 Screen print of comments from the Movant's data system regarding the Defendant's case, entry date July 20, 2012
- D-6 West Virginia Income Maintenance Manual, Chapter 1.2
- D-7 West Virginia Income Maintenance Manual, Chapter 20.2

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 July 2012 to August 2012 totaling \$273. (Exhibit D-2)
- 2) The overissuance was based on the Defendant's simultaneous receipt of SNAP benefits in [REDACTED] and West Virginia. (Exhibits D-3, D-4)
- 3) The Defendant's simultaneous receipt of SNAP benefits in two states was due to the fact that the Defendant did not report her active SNAP case in [REDACTED] when she applied for SNAP in West Virginia. Her application document dated February 14, 2014, reports a negative response to the question, "Has this person received SNAP benefits from another State?" (Exhibit D-4)
- 4) The Movant presented verification of the Defendant's SNAP benefits in [REDACTED] (Exhibit D-3). The Defendant was receiving SNAP benefits in [REDACTED] at the time she applied for SNAP benefits in West Virginia.
- 5) The Movant contended the action of the Defendant to report falsely her 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 previously went by the name [REDACTED].
- 7) The Defendant testified that she did not remember being in [REDACTED]. She testified she has not had the last name [REDACTED] "for a long time." She reviewed the signature on the [REDACTED] application documents (Exhibit D-4) and testified it was not hers. She testified that her identification was stolen.
- 8) 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

Testimony and evidence clearly show an action that meets the codified IPV definition.

The Defendant’s testimony regarding her presence in [REDACTED] and her signature is unconvincing. Although the last name used by the Defendant changed, the signatures on the [REDACTED] and West Virginia documents appear to be in the same handwriting. Both states required identifying information, such as her date of birth and Social Security number.

Because the Defendant did not provide information about her 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 May 1, 2015.

ENTERED this ____ Day of April 2015.

**Todd Thornton
State Hearing Officer**