



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 10, 2015

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 14-BOR-3629

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-3629**

**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 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 SNAP application documents, dated January 7, 2014
- D-4 Screen print of comments regarding the Defendant's case from the Movant's data system, entry dates December 11, 2013, through January 17, 2014
- D-5 Screen print of household address for the Defendant's case from the Movant's data system, entry date January 7, 2014
- D-6 Screen print of shelter costs for the Defendant's case from the Movant's data system, entry date January 7, 2014
- D-7 Correspondence and rental verification provided by ██████████, dated January 23, 2014

D-8	West Virginia Income Maintenance Manual (WVIMM), §1.2
D-9	WVIMM, §20.2
D-10	WVIMM, §20.6
D-11	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 January 2014 through February 2014 totaling \$161 (Exhibit D-2).
- 2) The overissuance was based on the inclusion of a \$350 rent expense for the Defendant in the calculation of her SNAP benefits.
- 3) On the Defendant's January 7, 2014 application for SNAP (Exhibit D-3) she reported she was responsible for \$350 monthly rent, and listed [REDACTED] as her lessor. The Defendant reported an address of "[REDACTED]" (Exhibits D-3 and D-5).
- 4) The Movant presented a letter and a verification form completed by Ms. [REDACTED] (Exhibit D-7). Ms. [REDACTED] indicated that she did not rent to the Defendant, and that the Defendant was not listed on the lease for the property at [REDACTED]. She further noted that there is no physical address of [REDACTED].
- 5) The Movant contended the action of the Defendant to claim an invalid shelter expense 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" 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.

### **DISCUSSION**

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

The testimony and evidence presented by the Movant clearly show an action that meets the codified IPV definition. The Defendant made a false statement regarding her shelter expense. The explicit false statement is sufficient to indicate intent.

### **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 1, 2015.

**ENTERED this \_\_\_\_ Day of February 2015.**

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**Todd Thornton  
State Hearing Officer**