



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

March 9, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 14-BOR-3651

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-3651

**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 10, 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 SNAP application documents, dated November 20, 2013
- D-4 SNAP application documents, dated May 20, 2014
- D-5 Screen prints of case comments from the Movant's computer system regarding the Defendant's case, entry dates November 20, 2013, through July 8, 2014
- D-6 Statement from ██████████
- 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	Administrative Disqualification Hearing 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 November 2013 to July 2014 totaling \$1378 (Exhibit D-2).
- 2) The overissuance was based on the inclusion of dependent care deductions for the Defendant when in fact she did not incur expenses for dependent care.
- 3) The Defendant reported expenses for dependent care at applications and reviews for SNAP eligibility conducted in November 2013 and May 2014 (Exhibits D-3 and D-4).
- 4) The Movant presented a statement indicating the Defendant did not have expenses for dependent care. The Defendant testified she did not have these expenses. The Defendant explained that when she reported that she did have dependent care expenses, she was referring to the cost of gasoline for travel to and from her child care provider, as well as the cost for the food and diapers she left with her child care provider.
- 5) The Department contended the action of the Defendant to claim a deduction for expenses she did not incur 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 facts presented by the Department clearly show an action that meets the codified IPV definition. The Defendant made a false statement regarding the allowable deductions from her household income, specifically stating that she paid for child care when in fact she did not. The Defendant's testimony suggesting there was confusion as to what constitutes a child care expense is unconvincing. The Defendant's false statement and the duration and dollar amount of the resulting SNAP overissuance 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 April 2015.

ENTERED this ____ Day of March 2015.

**Todd Thornton
State Hearing Officer**