



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 23, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 14-BOR-3880

Dear Mr. [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: Gina Grubb, Department Representative

**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
BOARD OF REVIEW**

██████████,

**Defendant,**

v.

**Action Number: 14-BOR-3880**

**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 (ADH) for ██████████ requested by the Movant on December 16, 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 March 12, 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 Gina Grubb. The Defendant was notified of the hearing but failed to appear. All witnesses were sworn and the following documents were admitted into evidence.

**Movant's Exhibits:**

- D-1            Screen print of Benefit Recovery Referral information
- D-2            West Virginia Income Maintenance Manual (WVIMM), Chapter 1.2
- D-3            Code of Federal Regulations, 7 CFR §273.16
- D-4            SNAP application documents, dated March 12, 2010
- D-5            SNAP application documents, dated April 29, 2011 and September 12, 2013
- D-6            ██████████, West Virginia Circuit Court Order, dated April 10, 2001
- D-7            WVIMM, Chapter 2.2 (excerpt)
- D-8            WVIMM, Chapter 2.2 (excerpt)

D-9	WVIMM, Chapter 2.2 (excerpt)
D-10	SNAP Claim Determination forms and supporting documentation
D-11	WVIMM, Chapter 20.6 (excerpt)
D-12	ADH documents
D-13	WVIMM, Chapter 20.2 (excerpt)
D-14	WVIMM, Chapter 20.2 (excerpt)
D-15	WVIMM, Chapter 20.2 (excerpt)

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 between the months of March 2010 and February 2014 in the amount of \$3074.
- 2) The Defendant was convicted of a felony offense after August 23, 1996 (Exhibit D-6), involving possession of a controlled substance.
- 3) The SNAP overissuance was based on the Defendant's approval for SNAP benefits subsequent to this conviction.
- 4) The Defendant was approved for SNAP benefits during this period because he failed to report this conviction at applications or eligibility reviews. (Exhibits D-4 and D-5) The application or review documents include a question specifically asking if any household members have been "...convicted of a drug felony for possession, use or distribution of a controlled substance committed on or after 08/23/96?" with a negative response from the Defendant on each document.
- 5) The Movant contended the action of the Defendant to fail to report his drug felony conviction 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.

WVIMM, Chapter 9.1.A.2.g, indicates individuals "convicted of a felony offense which occurred on or after 8/23/96 which involved possession, use or distribution of a controlled substance as

defined by section 802 (6) of the Controlled Substance Act,” are subject to permanent SNAP disqualification.

WVIMM, Chapter 9.1.A.2.h, indicates a first offense IPV results in a one year disqualification from SNAP.

WVIMM, 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 Movant requested this ADH to determine if the Defendant committed an IPV by not reporting a drug felony conviction.

The testimony and evidence clearly show an action that meets the codified IPV definition. The Defendant signed documents reporting he had no prior felony drug conviction, and these false statements resulted in several years of SNAP eligibility to which he was not entitled. The duration and dollar amount of the resulting 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 with June 2015. This disqualification is separate from the SNAP disqualification for a drug felony conviction, which is permanent.

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

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**Todd Thornton  
State Hearing Officer**