



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
1400 Virginia Street
Oak Hill, WV 25901

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

August 3, 2016

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-2119

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,

Kristi Logan
State Hearing Officer
Member, State Board of Review

Encl: Defendant's Recourse to Hearing Decision
Form IG-BR-29

cc: Rusty Udy, [REDACTED] County DHHR

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

██████████,

Defendant,

v.

Action Number: 16-BOR-2119

**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 June 16, 2016. 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 July 21, 2016.

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 24 months.

At the hearing, the Movant appeared by Rusty Udy, Repayment Investigator. The Defendant did not appear for the hearing. The Movant's representative was sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 Hearing Summary
- M-2 SNAP Claim Determination Form
- M-3 SNAP Claim Calculation Sheets
- M-4 SNAP Issuance History-Disbursement Screen Print
- M-5 SNAP Allotment Determination Screen Prints
- M-6 Statement from the Defendant dated December 7, 2015
- M-7 Case Members History Screen Print

- M-8 Case Comments from October 2014-May 2015
- M-9 Employee Wage Data Screen Print and Income Verification from [REDACTED]
- M-10 SNAP Application and Rights and Responsibilities dated December 9, 2014
- M-11 Advance Notice of Administrative Disqualification Hearing Waiver dated May 24, 2016
- M-12 West Virginia Income Maintenance Manual §§1.2E and 20.2
- M-13 Code Federal Regulations Title 7 §273.16

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 Department alleged that the Defendant committed an Intentional Program Violation by falsely reporting her household composition and requested that a twenty-four (24) month penalty be imposed against her.
- 2) The Defendant was notified of the hearing by scheduling order mailed on June 21, 2016. The Defendant failed to appear for the hearing or provide good cause for her failure to do so. In accordance to 7 CFR §273.16(e) (4)) and West Virginia Department of Health and Human Resources' Common Chapters Manual, §740.20, the hearing was held without the Defendant in attendance.
- 3) The Defendant applied for SNAP benefits (M-8) on December 9, 2014. She reported (M-10) four (4) people in her assistance group (AG) and that there was no income for the household. SNAP benefits were approved based on the information provided.
- 4) The Department obtained verification (M-9) that the Appellant's cohabiter, [REDACTED], had been employed with [REDACTED] since September 5, 2014, and was receiving regular earnings.
- 5) The Defendant was previously found to have committed an Intentional Program Violation in 2014.

APPLICABLE POLICY

Code of Federal Regulations, 7 CFR §273.16, establishes that an individual making a false or misleading statement, or misrepresenting, concealing or withholding facts, violating the Food Stamp Program, or any State statute for the purpose of acquiring, receiving, possessing or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system has committed an Intentional Program Violation (IPV).

West Virginia Income Maintenance Manual §1.2E states that it is the client's responsibility to provide information about his/her circumstances so the Worker is able to make a correct decision about his/her eligibility. Failure to fulfill this obligation may result in one or more of the following actions: denial of the application, closure of the active AG, removal of the individual from the AG, repayment of benefits, and/or a reduction in benefits.

West Virginia Income Maintenance Manual §20(C)(2) defines an IPV and establishes that IPV's include: making false or misleading statements, misrepresentations, concealing or withholding information, and committing any act that violates the Food Stamp Act of 1977, SNAP regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of SNAP benefits. Once an IPV has been established, a disqualification period must be imposed on the Assistance Group (AG) member who committed the violation.

West Virginia Income Maintenance Manual §9.1A(2) sets forth the penalties for individuals found guilty of an IPV as follows: First Offense, twelve (12) month disqualification; Second Offense, twenty-four (24) month disqualification; Third Offense, permanent disqualification.

DISCUSSION

Federal regulations define an Intentional Program Violation as making a false statement related to the acquisition of SNAP benefits.

The Defendant reported that no member of her household was receiving any income during the December 2014 SNAP application.

The Department provided verification that a member of the Defendant's household was employed and receiving regular paychecks prior to and during the time of the SNAP application. The Defendant made a false statement at application regarding her household's income, which meets the definition of an Intentional Program Violation.

CONCLUSIONS OF LAW

- 1) The Defendant made a false statement at her December 2014 SNAP application by reporting that no member of her household was receiving any income.
- 2) The Department provided irrefutable evidence that a member of the Defendant's household was employed and receiving earnings.
- 3) The act of making a false statement to obtain SNAP benefits constitutes an Intentional Program Violation.
- 4) The penalty for a second offense Intentional Program Violation is exclusion from participation in SNAP for twenty-four (24) months.

DECISION

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation. As this is the Defendant's second offense, she will be excluded from participation in the program for twenty-four (24) months, effective September 2016.

ENTERED this 3rd day of August 2016

**Kristi Logan
State Hearing Officer**