



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
4190 West Washington Street
Charleston, WV 25313

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

June 22, 2017

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 17-BOR-1721

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,

Natasha Jemerison
State Hearing Officer
Member, State Board of Review

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

cc: Fred Francis, Department Representative

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

██████████,

Defendant,

v.

Action Number: 17-BOR-1721

**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 April 25, 2017. 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 June 14, 2017.

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 Fred Francis. The Defendant was notified of the hearing but failed to appear, resulting in the hearing being held in the Defendant's absence. The witness was sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 Combined Application and Review Form (CAF) and Rights and Responsibilities (R&R), dated November 5, 2007
- M-2 Combined Application and Review Form (CAF) and Rights and Responsibilities (R&R), dated April 8, 2008
- M-3 Combined Application and Review Form (CAF) and Rights and Responsibilities (R&R), dated December 4, 2008
- M-4 Income Verification for ██████████, from November 2007 through June 2009
- M-5 Signed statement from ██████████, dated March 20, 2012

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 December 2007 to April 2009, due to the exclusion of earned income.
- 2) The income was not included in the calculation of the Defendant's SNAP benefits, because the Defendant failed to report it on Combined Application and Review Forms (CAF) she signed on November 5, 2007, April 8, 2008, and December 4, 2008. (M-1 through M-3)
- 3) The Defendant was employed and received earned income at the time of each completed CAF. (M-4)
- 4) The Movant contended the action of the Defendant to conceal information regarding her household income constitutes an Intentional Program Violation (IPV), and requested this hearing for the purpose of making that determination.
- 5) The Defendant has no prior IPV offenses.

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 §1.2(E) 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 §9.1(A)(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

On April 25, 2017, the Movant requested an Administrative Disqualification Hearing (ADH) to determine whether the Defendant committed an Intentional Program Violation (IPV). The Defendant did not appear for the hearing, and as such could not dispute facts presented by the Movant.

To show the Defendant committed an IPV, the Movant must prove, by clear and convincing evidence, that the Defendant intentionally concealed or withheld facts pertinent to her SNAP eligibility.

The Defendant received an overissuance of SNAP benefits from December 2007 to April 2009, due to the exclusion of earned income for the calculation of the Defendant's SNAP benefits. On at least three (3) separate applications and reviews, the Defendant failed to disclose her earned income to the Movant. The Defendant was employed and received earned income at the time of each completed CAF on November 5, 2007, April 8, 2008, and December 4, 2008. The testimony and evidence presented by the Movant clearly show an action that meets the definition of an IPV. The Defendant made false statements regarding her household income by signing the CAFs claiming zero household income while she was actively employed. The duration of the resulting overissuance is sufficient to indicate intent.

CONCLUSION OF LAW

Because the action of the Defendant constitutes an IPV, the Movant must disqualify the Defendant from receipt of SNAP benefits, and because the IPV is a first offense, the disqualification period is one year.

DECISION

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation. The Defendant will be disqualified from receipt of SNAP benefits for a period of one year, beginning August 1, 2017.

ENTERED this 22nd Day of June 2017.

**Natasha Jemerison
State Hearing Officer**