



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

Jim Justice  
Governor

Bill J. Crouch  
Cabinet Secretary

August 31, 2017

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 17-BOR-1859

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

cc: Elizabeth Mullins, Department Representative

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

██████████,

**Defendant,**

v.

**Action Number: 17-BOR-1859**

**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 May 19, 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 July 13, 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 Elizabeth Mullins. The Defendant was notified of the hearing but 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/review documents, signed September 28, 2015
- D-4 SNAP review documents, signed February 28, 2016
- D-5 Employment and income verification for the Defendant's daughter
- D-6 West Virginia Income Maintenance Manual (WVIMM), §1.2 (excerpt)
- D-7 WVIMM, §20.2
- D-8 WVIMM, §20.6 (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 was a recipient of SNAP benefits.
- 2) The Defendant received an overissuance of SNAP benefits from October 2015 to August 2016. (Exhibit D-2)
- 3) The SNAP overissuance was based on the exclusion of the earned income of the Defendant's daughter from the calculation of her SNAP benefits.
- 4) This income was not included in the calculation of the Defendant's SNAP benefits because the Defendant failed to report it on a SNAP review document she signed on February 28, 2016. (Exhibit D-4)
- 5) The Movant obtained verification that the Defendant's daughter was hired by [REDACTED], in September 2015, and verification of her quarterly wages from employment during the SNAP claim period. (Exhibit D-5)
- 6) The Movant contended the action of the Defendant constitutes an Intentional Program Violation (IPV), and requested this hearing for making that determination.

### **APPLICABLE POLICY**

The Code of Federal Regulations, 7 CFR §273.16(c) defines an IPV as having intentionally "concealed or withheld facts" for purposes of SNAP eligibility.

The West Virginia Income Maintenance Manual (WVIMM), §9.1.A.2.h, indicates a first offense IPV results in a one year disqualification from SNAP.

The WVIMM, §2.2.B, specifies reporting requirements for a SNAP assistance group (AG) and reads, in part, "All SNAP AGs must report changes related to eligibility and benefit amount at application and redetermination."

### **DISCUSSION**

The Movant requested this hearing to determine if the Defendant committed an intentional violation of SNAP regulations and the appropriate penalty, if any. 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 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 did not report the onset of income from employment for her daughter during a review of her SNAP eligibility. The dollar amount and 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 October 1, 2017.

**ENTERED this \_\_\_\_ Day of August 2017.**

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**Todd Thornton  
State Hearing Officer**