



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-1943

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: Brian Shreve, Department Representative

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

██████████,

Defendant,

v.

Action Number: 17-BOR-1943

**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 6, 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 18, 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 24 months.

At the hearing, the Movant appeared by Brian Shreve. 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:

- D-1 Code of Federal Regulations, 7 CFR §273.16
- D-2 Benefit Recovery Referral screen print from the Movant's data system regarding the Defendant; Email referral regarding the Defendant
- D-3 SNAP claim determination form and supporting documentation
- D-4 Income verification for the Defendant from ██████████
- D-5 SNAP review documents, signed September 30, 2016
- D-6 Case comments regarding the Defendant's case from the Movant's data system, entry dates October 4, 2016, through December 22, 2016
- D-7 West Virginia Income Maintenance Manual (WVIMM), §1.2 (excerpt)
- D-8 WVIMM, §20.2
- D-9 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) The Defendant received an overissuance of SNAP benefits between October 2016 and February 2017 totaling \$1350 (Exhibit D-3).
- 2) The overissuance was based on the exclusion of the Defendant's earned income from the calculation of her SNAP benefits.
- 3) 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 September 30, 2016 (Exhibit D-5).
- 4) The Defendant was employed and had earned income at the time of this SNAP review (Exhibit D-4).
- 5) 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.
- 6) The Defendant has one prior IPV offense.

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, Chapter 9.1.A.2.h, indicates a second offense IPV results in a two-year disqualification from SNAP.

DISCUSSION

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 testimony and evidence presented by the Movant clearly show an action that meets the codified IPV definition. The Defendant made a false statement regarding her household income. She completed and signed a SNAP review document, withholding any information regarding her earned income while actively employed. The dollar amount and duration of the resulting overissuance is sufficient to indicate intent.

The Movant maintains records of IPV disqualifications. The testimony of the Movant's representative was sufficient to establish the proper disqualification period as two years for a second offense IPV.

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 second offense the disqualification period is two years.

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 two years, beginning October 1, 2017.

ENTERED this ____ Day of August 2017.

Todd Thornton
State Hearing Officer