



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

November 8, 2017

AMENDED DECISION

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 17-BOR-2199

Dear Ms. [REDACTED]

Enclosed is an **amended copy** of the decision resulting from the hearing held in the above-referenced matter. **This copy corrects the duration of the disqualification period listed in the Decision section. There are no other changes to the decision dated October 19, 2017.**

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-2199

**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 July 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 September 6, 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. 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 SNAP claim determination form and supporting documentation
- D-3 SNAP review documents, signed November 29, 2016
- D-4 SNAP review documents, signed February 15, 2017
- D-5 SNAP review documents, signed May 1, 2017
- D-6 Documentation from ██████████ County Correctional Center;
Documentation from Regional Jail Authority
- D-7 Screen prints from the Respondent's data system regarding the Appellant:
Case Comments, entry dates September 23, 2016, through May 18, 2017;
Data Exchange – SSA Prisoner Match Information
- D-8 West Virginia Income Maintenance Manual (WVIMM), §1.2 (excerpt)

D-9	WVIMM, §20.2
D-10	WVIMM, §20.6
D-11	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 December 2016 and May 2017 totaling \$1344 (Exhibit D-2).
- 2) The overissuance was based on the inclusion of [REDACTED] in the Defendant's assistance group (AG) in determining the amount of her SNAP benefits.
- 3) Mr. [REDACTED] was included in the determination of the Defendant's SNAP benefit amount because the Defendant reported him as present in her home on three separate SNAP review documents she signed, from November 29, 2016 (Exhibit D-3), February 15, 2017 (Exhibit D-4), and May 1, 2017 (Exhibit D-5).
- 4) Mr. [REDACTED] was not residing with the Defendant at the time because he was incarcerated (Exhibits D-6 and D-7).
- 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 no prior IPV offenses.

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 first offense IPV results in a one-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 three false statements regarding her household composition. These documents asked the Defendant to list or confirm the members of her household, and the Defendant continued to list or confirm [REDACTED] in her home after documentation showed he was incarcerated. The dollar amount and duration of the resulting overissuance is sufficient to indicate intent.

The Movant proved, by clear and convincing evidence, that the Defendant committed an IPV. As the Defendant has no prior IPV disqualifications, the Movant is correct to disqualify the Defendant from SNAP participation for one year.

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 December 1, 2017.

ENTERED this ____ Day of October 2017.

**Todd Thornton
State Hearing Officer**