



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

February 17, 2017

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 16-BOR-3006

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: Claimant'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: 16-BOR-3006

**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 November 15, 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 January 4, 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 appeared *pro se*. 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 review documents, signed July 8, 2015
- D-4 Screen prints of comments regarding the Defendant's case from the Movant's data system, entry dates January 15, 2014, through February 12, 2016
- D-5 Income verification for the Defendant from ██████████, ██████████, from July 3, 2015, through December 4, 2015 (pay dates)
- D-6 Additional income verification for the Defendant
- D-7 West Virginia Income Maintenance Manual (WVIMM), §1.2 (excerpt)
- D-8 WVIMM, §20.2
- D-9 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's SNAP benefit level was based on her reported income from one employer. (Exhibit D-6)
- 3) The Defendant was hired at a second employer on June 23, 2015 (Exhibit D-4, entry dated February 1, 2016) and received her first pay from the second employer on July 3, 2015. (Exhibit D-5)
- 4) The Defendant signed a SNAP review document on July 8, 2015, certifying "the statements on this form are true and correct to the best of my knowledge." (Exhibit D-4)
- 5) The SNAP review document included the question, "Has anyone had a change in earnings (including earnings from self-employment) because they changed, started or stopped a job?" with the response marked 'No' by the Defendant. (Exhibit D-4)
- 6) The Movant contended the action of the Defendant constitutes an Intentional Program Violation (IPV), and requested this hearing for the purpose of 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 testimony and evidence presented by the Movant clearly show an action that meets the codified IPV definition. The Defendant was receiving SNAP benefits based on the level of income reported from her job. The Defendant started a second job and received her first paycheck from this job shortly before she signed a SNAP review document with a false statement regarding the onset of this additional income. The testimony of the Defendant that she reported the second job is unconvincing in light of this review document. 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 April 1, 2017.

ENTERED this ____ Day of February 2017.

**Todd Thornton
State Hearing Officer**