



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
1400 Virginia Street  
Oak Hill, WV 25901

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

October 22, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 15-BOR-3033

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,

Kristi Logan  
State Hearing Officer  
Member, State Board of Review

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

cc: Ellis Bryson, [REDACTED] County DHHR

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

██████████,

**Defendant,**

v.

**Action Number: 15-BOR-3033**

**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 September 14, 2015. 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 October 20, 2015.

The matter before the Hearing Officer arises from a request by the Department for a determination as to whether the Defendant has committed an Intentional Program Violation and should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Department appeared by Ellis Bryson, Criminal Investigator. The Defendant appeared *pro se*. Appearing as a witness for the Defendant was ██████████, the Defendant's mother. All witnesses were sworn and the following documents were admitted into evidence.

**Movant's Exhibits:**

- M-1      Hearing Summary
- M-2      Screen Prints from the Defendant's Facebook Page ([www.facebook.com](http://www.facebook.com))
- M-3      Photograph of ██████████ and Screen Print from ██████████  
            Facebook Page ([www.facebook.com](http://www.facebook.com))
- M-3a     Photograph of ██████████
- M-4      Correspondence to the Defendant dated April 27, 2015

- M-5 Correspondence to the Defendant dated July 29, 2015
- M-6 Advance Notice of Administrative Disqualification Hearing Waiver dated August 7, 2015
- M-7 West Virginia Income Maintenance Manual §9.1
- M-8 Code of Federal Regulations Title 7 §273.16
- M-9 SNAP/Medicaid Review Form received January 27, 2015
- M-10 West Virginia Secretary of State Online Date Services Business and Licensing Screen Print

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 Department alleged that the Defendant committed an Intentional Program Violation (IPV) by falsely reporting her household income, and requested that a SNAP penalty of twelve (12) months be imposed against her.
- 2) The Defendant submitted a SNAP eligibility review form (M-9) on January 27, 2015. She reported no earned income for her household.
- 3) The Department presented screen prints (M-2) from the Defendant's Facebook page on which the Defendant listed that she had been the manager of [REDACTED] since 2014.
- 4) The Department obtained screen prints from [REDACTED] Facebook page showing photographs (M-3 and M-3a) of the Defendant's husband, [REDACTED], working there as a cook.
- 5) The Department contended that the Defendant intentionally withheld the fact that she and her husband were employed and as a result received SNAP benefits for which they were not entitled to receive.

### **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 §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 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**

The Defendant purported that she and her husband only volunteered for [REDACTED], which was owned by her parents, and that they were not paid for their work.

The Defendant's mother, [REDACTED], contended that other family members volunteered at the restaurant and that she had hopes of being able to pay everyone for their work, but the business failed after being open for six (6) months. Ms. [REDACTED] denied paying the Defendant or her husband while they were employed there.

In order to make a determination as to whether or not an Intentional Program Violation was committed, the Department must provide clear and convincing evidence that the Defendant made a false statement related to the acquisition of SNAP benefits. There is no evidence that the Defendant or her husband profited from their employment or received SNAP benefits for which they were not entitled.

### **CONCLUSIONS OF LAW**

Whereas the Department failed to provide evidence that the Defendant made a false statement regarding her household's earned income, an Intentional Program Violation was not committed.

### **DECISION**

It is the finding of the State Hearing Officer that the Defendant did not commit an Intentional Program Violation.

**ENTERED this 22<sup>nd</sup> day of October 2015**

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**Kristi Logan  
State Hearing Officer**