



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

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

January 30, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 14-BOR-3617

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: Cassandra Burns, Department Representative

- D-6 Screen prints of case comments from the Movant's computer system regarding the Defendant's case, entry dates July 22, 2013, through November 25, 2013
- D-7 West Virginia Income Maintenance Manual, Chapter 1.2
- D-8 West Virginia Income Maintenance Manual, Chapter 20.2
- D-9 West Virginia Income Maintenance Manual, Chapter 20.6
- D-10 ADH 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) Defendant received an overissuance of SNAP benefits from November 2013 to December 2013 totaling \$371 (Exhibit D-2).
- 2) The overissuance was based on the inclusion of the Defendant's children in her assistance group (AG) when in fact the children were not residing with her.
- 3) The Defendant's children were out of her custody as of October 22, 2013 (Exhibit D-3). A court order, dated November 26, 2013 (Exhibit D-4), extended the initial emergency protective order until a hearing could be held on December 19, 2013.
- 4) The Defendant's children were included in her SNAP AG based on her reporting the children as residing with her on a SNAP application document she signed on November 25, 2013 (Exhibit D-5).
- 5) The Defendant testified that she was only presented the signature page of her application document (Exhibit D-5) to sign, and did not view the pages showing her reported household composition. She did not report questioning this, or asking to view the entire document before affixing her signature under a statement which reads, in part:

I have reviewed or had read to me the information contained in this automated portion of the application form and I understand the information...Under penalty of perjury, I certify that the statements are true and correct.

- 6) The Department contended the action of the Defendant to falsely report individuals in her household constitutes an Intentional Program Violation (IPV), and requested this hearing for the purpose of making that determination.
- 7) 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 “made a false or misleading statement” 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 facts presented by the Department clearly show an action that meets the codified IPV definition. The Defendant made a false statement regarding her household composition, specifically stating that her children were residing with her when in fact the children had been removed from her custody.

It was the Defendant’s responsibility to review the application document before signing it. Her signature indicated her agreement with the information listed on the document. Information reported during an application with the Department is entered into a data system, and a document is generated at the conclusion of the interview for the applicant’s signature. By signing the document, the applicant affirms the content of the document as the content of the interview. Without a signature statement such as this, it would be difficult, if not impossible, to ever firmly establish the content of an interview after the fact. Although the Defendant’s testimony on this point was particularly unconvincing, it would not change the fact she affirmed the false statements on her application with her signature, whether she read the document or not. The Defendant’s false statement is sufficient to indicate intent.

CONCLUSION OF LAW

Because the Defendant has committed a first-offense IPV, the Department must disqualify the Defendant from receipt of SNAP benefits for one year.

DECISION

The proposed IPV disqualification of the Defendant is upheld. The Defendant will be disqualified from receipt of SNAP benefits for a period of one year, beginning with March 2015.

ENTERED this ____ Day of January 2015.

Todd Thornton
State Hearing Officer