



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

February 13, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 14-BOR-3634

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

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

██████████,

Defendant,

v.

Action Number: 14-BOR-3634

**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 18, 2014. 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 February 10, 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 thus should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Department appeared by Cassandra Burns. The Defendant was notified of the hearing and failed to appear, resulting in the hearing being held in the Defendant's absence. 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 Family Functioning Assessment (FFA), dated February 25, 2014
- D-4 SNAP application documents, dated September 3, 2013
- D-5 Screen prints of case comments from the Movant's computer system regarding the Defendant's case, entry dates March 7, 2013, through September 4, 2013
- D-6 West Virginia Income Maintenance Manual, Chapter 1.2

- D-7 West Virginia Income Maintenance Manual, Chapter 20.2
- D-8 West Virginia Income Maintenance Manual, Chapter 20.6
- D-9 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 September 2013 to February 2014, totaling \$1905 (Exhibit D-2).
- 2) The overissuance was based on the inclusion of the Defendant's daughter [REDACTED] and granddaughter [REDACTED] in her assistance group (AG) when in fact they were not residing with her.
- 3) The Movant presented a FFA document (Exhibit D-3) completed as a result of a separate investigation of the Defendant. This document includes interview findings related to the Defendant's household composition. On page two of the document, it is noted that the Defendant's daughter [REDACTED] reported "she took off around June 2013 with her daughter," that "[the Defendant] did not know where she was living while she was on the run," and that [REDACTED] had "been staying at [the Defendant's] on and off but mostly has been living with a friend..."
- 4) The Defendant's daughter and granddaughter were included in her SNAP AG based on her reporting them as residing with her on a SNAP application document she signed on September 3, 2013 (Exhibit D-4).
- 5) 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.
- 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 "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 Defendant did not appear for the hearing, and as such could not dispute the evidence presented by the Department.

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 daughter and granddaughter were residing with her when in fact they had left her household and were primarily residing elsewhere. The duration and amount of the overissuance, in addition to the Defendant's false statement, are 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 April 1, 2015.

ENTERED this ____ Day of February 2015.

**Todd Thornton
State Hearing Officer**