



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
4190 Washington Street, West  
Charleston, West Virginia 25313  
(304)746-2360, ext. 2227

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

February 19, 2016

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 16-BOR-1036

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,

Donna L. Toler  
State Hearing Officer  
Member, State Board of Review

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

cc: Natasha Jemerison, Repayment Investigator

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

██████████,

**Defendant,**

v.

**Action Number: 16-BOR-1036**

**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 January 6, 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 February 9, 2016.

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 Natasha Jemerison, Repayment Investigator. The Defendant failed to appear. The witness was sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- M-1           RAPIDS Benefit Recovery Referral computer screen print, dated July 22, 2015
- M-2           West Virginia Income Maintenance Manual §1.2.E
- M-3           Food Stamp Claim Determination forms, dated November 19, 2013 through October 2014 and November 6, 2014 through August 2015, with supporting documentation of over-issuance calculations
- M-4           Code of Federal Regulations 7 CFR §273.16
- M-5           Combined Application and Review Form for Financial, Medical and Supplemental Nutrition Assistance Program (SNAP) benefits, signed November 19, 2013, and accompanying Rights and Responsibilities

- M-6 Combined Application and Review Form for Financial, Medical and Supplemental Nutrition Assistance Program (SNAP) benefits, signed April 1, 2014, and accompanying Rights and Responsibilities
- M-7 Combined Application and Review Form for Financial, Medical and Supplemental Nutrition Assistance Program (SNAP) benefits, signed November 6, 2014, and accompanying Rights and Responsibilities
- M-8 Supplemental Nutrition Assistance Program (SNAP) - 6 or 12 month contact form, signed April 1, 2015
- M-9 Equifax Verification Services Employment Verification for Defendant, most recent hire date September 26, 2013
- M-10 West Virginia Income Maintenance Manual §20.6
- M-11 Advance Notice of Administrative Disqualification Hearing Waiver, dated December 3, 2015
- M-12 ADH Hearing Summary

**Defendant's Exhibits:**

None

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 Investigations and Fraud Management Division of the Department of Health and Human Resources (Department) is alleging that the Defendant committed an Intentional Program Violation (IPV). The Department contends that the Defendant withheld information regarding household income, resulting in an over-issuance of Supplemental Nutrition Assistance Program (SNAP) benefits in the amount of \$3,778, for the time period of November 2013 through August 2015. (Exhibit M-3)
- 2) The Defendant completed SNAP applications/redeterminations on November 19, 2013, April 1, 2014 and November 6, 2014. (Exhibits M-5 through M-7)
- 3) The Defendant completed a SNAP - 6 or 12 month contact form (hereinafter "contact form") on April 1, 2015. (Exhibit M-8)
- 4) At the times of the applications/redeterminations and the contact form, the Defendant reported no source of earned or unearned income for an Assistance Group of three (3) individuals, which included herself and her two (2) children. (Exhibits M-5 and M-8)
- 5) The Defendant signed the rights and responsibilities sections of the applications/redeterminations forms and the contact form, affirming that all the

information she gave was “true, correct, and complete to the best of my ability, belief, and knowledge.” (Exhibit M-5 and M-8)

- 6) The Defendant was continuously employed and received wages (earned income) through her employment with [REDACTED] beginning in October 2013 through November 2015. (Exhibit M-9)

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual §1.2 specifies it is the client’s responsibility to provide information about his/her circumstances so the Worker is able to make a correct decision concerning his/her eligibility.

West Virginia Common Chapters Manual §740.11.D and the Code of Federal Regulations 7 CFR Section 273.16, establish that an individual making a false or misleading statement, or misrepresenting, concealing or withholding facts has committed an Intentional Program Violation (IPV).

West Virginia Income Maintenance Manual §20.2.C.2 requires that once an IPV has been established, a disqualification period must be imposed on the Assistance Group member(s) 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.

West Virginia Income Maintenance Manual §1.4 (April/May 2013) required redeterminations at six (6) month intervals for SNAP recipients. In June 2014, certification periods were changed from six (6) months to twelve (12) months for non-aged/disabled households.

### **DISCUSSION**

The Department clearly established that the Defendant withheld information about her earned income when she failed to report the earnings received through her employment with [REDACTED], at the times of her November 19, 2013, April 1, 2014 and November 6, 2014 SNAP applications/redeterminations and at the time of her April 1, 2015 contact form. As a result of failing to provide accurate information regarding her income, the Defendant received an over-issuance of Supplemental Nutrition Assistance Program (SNAP) benefits from November 2013 through August 2015, in the amount of \$3,778.

The Appellant failed to appear at the hearing of this matter to refute the evidence provided by the Department.

### **CONCLUSIONS OF LAW**

- 1) The Defendant's action of withholding information regarding earned income she received through her employment from November 2013 through August 2015, meets the regulatory definition of an Intentional Program Violation.
- 2) Because this is the Defendant's first offense, regulations require a twelve (12) month disqualification from the Supplemental Nutrition Assistance Program.

### **DECISION**

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation. The Defendant will be disqualified from participation in SNAP for twelve (12) months beginning April 1, 2016.

**ENTERED this \_\_\_ day of February 2016.**

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**Donna L. Toler**  
**State Hearing Officer**