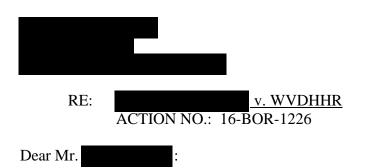


# STATE OF WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES OFFICE OF INSPECTOR GENERAL

Earl Ray Tomblin Governor BOARD OF REVIEW 4190 Washington Street, West Charleston, West Virginia 25313 Karen L. Bowling Cabinet Secretary

March 9, 2016



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: Rusty Udy, Repayment Investigator

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

Defendant,

v. Action Number: 16-BOR-1226

# 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 the state Hearing of the Movant on February 3, 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 March 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 twelve months.

At the hearing, the Department appeared by Rusty Udy. The Defendant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

# **Movant's Exhibits:**

D-1	Form IG-BR-31 Hearing Summary
D-2	Form ES-FS-5 Food Stamp Claim Determination SNAP application/review
	documents, signed December 5, 2014
D-3	SNAP Issuance History computer screen print, dated September 9, 2014
	through November 9, 2015
D-4	Food Stamp Allotment Determination computer screen prints, dated March
	through May 2015
D-5	Non-Financial Eligibility Determination computer screen prints, dated
	March through May 2015

D-6	Case Members History computer screen print, print date March 2, 2016
D-7	Case Comments computer screen print, dated March 27, 2015 through
	August 24, 2015
D-8	Electronic Benefit Transfer Transaction History computer screen prints,
	dated March 27, 2015 through June 9, 2015 (West Virginia)
D-9	Food Stamp Report - Food Stamp Transactions February 27, 2015 through
	July 18, 2015 (
D-10	West Virginia Department of Health and Human Resources Application for
	Benefits, executed March 26, 2015
D-11	Waiver of Administrative Disqualification Hearing and December 15, 2015
	Advance Notice of Administrative Disqualification Hearing Waiver
D-12	West Virginia Income Maintenance Manual Policy §§1.2.E, 20.1 and 20.2
D-13	Code of Federal Regulations 7 CFR §273.16

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 received an over-issuance of Supplemental Nutrition Assistance Program (SNAP) benefits from March 27, 2015 through May 2015 totaling \$1107. (Exhibit D-2)
- 2) The over-issuance was based on the Defendant's simultaneous receipt of SNAP benefits in the states of and West Virginia. (Exhibits D-2, D-8 and D-9)
- 3) The Defendant received SNAP benefits in both states because he failed to report he was receiving SNAP in when he made a March 26, 2015 application for SNAP in West Virginia. (Exhibits D-8 through D-10)
- 4) The Movant presented verification the Defendant received and utilized SNAP benefits issued in during the time he received them in West Virginia (March 27, 2015 through May 2015). (Exhibits D-8 and D-9)
- 5) The Movant contended the action of the Defendant to conceal information regarding his receipt of SNAP benefits in 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.
- 7) The Defendant did not contest evidence and testimony presented by the Movant.

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### 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, Chapter 9.1.A.2.h, indicates a first offense IPV results in a one-year disqualification from SNAP.

# **DISCUSSION**

The Movant contended that the Defendant committed an IPV by withholding information about his active SNAP case in when he applied for SNAP in West Virginia.

The Defendant offered no testimony or evidence in opposition to the Movant's contention.

The testimony and evidence presented by the Movant clearly show an action that meets the codified IPV definition. The Defendant made a false statement allowing him to receive SNAP benefits from two states at the same time.

# **CONCLUSION OF LAW**

Because the action of the Defendant constitutes an IPV, the Department must disqualify the Defendant from receipt of SNAP benefits, and because the IPV is a first offense the disqualification period is 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, 2016.

Donna L. Toler
State Hearing Officer

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