



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

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

March 9, 2016

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 16-BOR-1226

Dear Mr. [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: Rusty Udy, Repayment Investigator

_____;

V.

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

DECISION OF STATE HEARING OFFICER

This is the decision of the State Hearing Officer resulting from an administrative disqualification hearing for [REDACTED], requested by 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.

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.

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.

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 [REDACTED] 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.

ENTERED this ____ Day of March 2016.

Donna L. Toler
State Hearing Officer