



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

May 19, 2016



RE: [REDACTED] v. WVDHHR  
ACTION NO.: 16-BOR-1479

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: Fred Francis, Department Representative

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

██████████,

**Defendant,**

**v.**

**Action Number: 16-BOR-1479**

**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 March 9, 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 May 4, 2016.

The matter before the Hearing Officer arises from a request by the Movant 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 24 months.

At the hearing, the Movant appeared by Fred Francis. The Defendant was notified of the hearing but 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 | SNAP review documents, dated September 6, 2012   |
| D-2 | SNAP telephone review documents, dated September 4, 2012   |
| D-3 | SNAP telephone review documents, dated March 4, 2013   |
| D-4 | Medicaid review documents, dated September 19, 2012  |
| D-5 | Income verification for the Defendant's son from ██████████ dated March 30, 2014 (date prepared) |
| D-6 | Written statement from the Defendant, signed October 3, 2014                                     |

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 overissuance of SNAP benefits from October 2012 to September 2013 totaling \$3569.
- 2) The overissuance was based on the exclusion of the earned income of the Defendant's son from the calculation of her SNAP benefits.
- 3) This income was not included in the calculation of the Defendant's SNAP benefits because the Defendant failed to report her son's income on SNAP reviews completed during this time period (Exhibits D-1, D-2 and D-3) or on a review for related programs administered by the Movant (Exhibit D-4) that also afforded her the opportunity to report the income for SNAP eligibility purposes.
- 4) The Movant presented income verification (Exhibit D-5) for the Defendant's son. The Defendant's son was employed at the time of all reviews and applications submitted for evidence.
- 5) The Movant contended the action of the Defendant to conceal information regarding her household income constitutes an Intentional Program Violation (IPV), and requested this hearing for the purpose of making that determination.
- 6) The Defendant has one prior IPV offense, and the sanction proposed by the Movant would correspond to a second IPV offense.

### **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 second offense IPV results in a two year disqualification from SNAP.

### **DISCUSSION**

The Defendant did not appear for the hearing, and as such could not dispute facts presented by the Movant.

The testimony and evidence presented by the Movant clearly show an action that meets the codified IPV definition. The Defendant made multiple false statements regarding her household income. The dollar amount and duration of the resulting overissuance is sufficient to indicate intent.

### **CONCLUSION OF LAW**

Because the action of the Defendant constitutes an IPV, the Movant must disqualify the Defendant from receipt of SNAP benefits, and because the IPV is a second offense the disqualification period is two years.

### **DECISION**

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation. The Defendant will be disqualified from receipt of SNAP benefits for a period of two years, beginning July 1, 2016.

**ENTERED this \_\_\_\_ Day of May 2016.**

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**Todd Thornton  
State Hearing Officer**