



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
1400 Virginia Street
Oak Hill, WV 25901

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

May 11, 2016

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-1536

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,

Kristi Logan
State Hearing Officer
Member, State Board of Review

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

cc: Andrew Petitt, [REDACTED] County DHHR

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

██████████,

Defendant,

v.

Action Number: 16-BOR-1536

**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 18, 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 April 26, 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 should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Movant appeared by Andrew Petitt, Front End Fraud Supervisor. Appearing as a witness for the Movant was Tammi Cooley, Front End Fraud Investigator. The Movant's representative and witness were sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 Hearing Summary
- M-2 Combined Application and Review Form and Rights and Responsibilities dated February 9, 2009
- M-3 Combined Application and Review Form and Rights and Responsibilities dated July 24, 2009

- M-4 Combined Application and Review Form and Rights and Responsibilities dated March 19, 2010
- M-5 SNAP Review Form dated August 16, 2010
- M-6 Statement from [REDACTED] dated January 3, 2011
- M-7 Rental Application signed December 4, 2000
- M-8 Lease Agreements signed December 23, 2009
- M-9 Mail Delivery Verification dated February 8, 2011
- M-10 Application for Child Care Services dated April 6, 2009
- M-11 Child Care Assistance Status Check form dated September 30, 2009
- M-12 Application for Child Care Services dated October 26, 2009
- M-13 Child Care Assistance Status Check form dated April 8, 2010
- M-14 Employment Verification from [REDACTED]
- M-15 West Virginia Income Maintenance Manual §9.1A(1)
- M-16 West Virginia Income Maintenance Manual §1.2E
- M-17 Code of Federal Regulations Title 7 §273.16
- M-18 West Virginia Income Maintenance Manual §20.1
- M-19 West Virginia Income Maintenance Manual §20.2

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 Department alleged that the Defendant committed an Intentional Program Violation by falsely reporting her household composition and requested that a twelve (12) month penalty be imposed against her.
- 2) The Defendant was notified of the hearing by scheduling order sent on March 23, 2016. The Defendant failed to appear for the hearing or provide good cause for her failure to do so. In accordance to 7 CFR §273.16(e) (4)) and West Virginia Department of Health and Human Resources' Common Chapters Manual, §740.20, the hearing was held without the Defendant in attendance.
- 3) The Defendant completed SNAP eligibility reviews (M-2, M-3, M-4 and M-5) on February 9, 2009, July 24, 2009, March 19, 2009 and August 3, 2010. At each review, the Defendant reported that her household consisted of herself and her daughter, [REDACTED] SNAP benefits were recertified based on the information provided.
- 4) The Department provided Child Care application and review forms (M-10, M-12 and M-13) dated April 6, 2009, October 26, 2009 and April 8, 2010, on which the Defendant reported [REDACTED], [REDACTED] father, as residing in her household.

- 5) The Department provided a lease agreement (M-7 and M-8) dated December 28, 2009, signed by [REDACTED] for a residence located at [REDACTED], West Virginia. The lease agreement listed the Defendant and [REDACTED] as residents of Mr. [REDACTED] household.
- 6) The Department contended that the Defendant made false statements during her SNAP eligibility reviews by reporting only herself and her daughter as residing in her household. The result of the misrepresentation of her household composition was an overpayment of SNAP benefits in the amount of \$6,501.

APPLICABLE POLICY

Code of Federal Regulations, 7 CFR §273.16, establishes that an individual making a false or misleading statement, or misrepresenting, concealing or withholding facts, violating the Food Stamp Program, or any State statute for the purpose of acquiring, receiving, possessing or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system has committed an Intentional Program Violation (IPV).

West Virginia Income Maintenance Manual §20(C)(2) defines an IPV and establishes that IPV's include: making false or misleading statements, misrepresentations, concealing or withholding information, and committing any act that violates the Food Stamp Act of 1977, SNAP regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of SNAP benefits. Once an IPV has been established, a disqualification period must be imposed on the Assistance Group (AG) member who committed the violation.

West Virginia Income Maintenance Manual §9.1A(2) 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 §9.1A(1) states that natural or adopted children and stepchildren who are under 22 years of age and who live with a parent must be in the same AG as that parent.

DISCUSSION

The Defendant reported that [REDACTED] resided in her household when applying for Child Care services, yet reported only herself and her daughter during her SNAP eligibility review. Mr. [REDACTED] is the father of the Defendant's daughter and is therefore required to be included in her SNAP assistance group. Mr. [REDACTED] had earned income which was not included in the determination of the Defendant's SNAP eligibility, and as a result, SNAP benefits were issued to the Defendant for which she was entitled to receive.

CONCLUSIONS OF LAW

- 1) The Department provided clear and convincing evidence that the Defendant made false statements during numerous SNAP eligibility reviews by reporting that her household consisted only of herself and her daughter, when in fact [REDACTED] was determined to be residing with the Defendant and their daughter.
- 2) The Defendant's actions meet the definition of an Intentional Program Violation and a 12-month penalty will be applied.

DECISION

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation and will be excluded from participation in SNAP for 12 months, effective June 2016.

ENTERED this 11th day of May 2016

**Kristi Logan
State Hearing Officer**