



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 4, 2016

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-1542

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: Rusty Udy, Repayment Investigator

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

██████████,

Defendant,

v.

Action Number: 16-BOR-1542

**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 23, 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 3, 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 should thus be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

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

Movant's Exhibits:

M-1	Hearing Summary
M-2	SNAP Claim Determination
M-3	SNAP Claim Calculation Sheets
M-4	SNAP Issuance History-Disbursement Screen Print
M-5	SNAP Allotment Determination Screen Prints
M-6	Non-Financial Eligibility Determination Screen Prints
M-7	Case Members History Screen Print
M-8	Case Comments from May 2015-June 2015

- M-9 Employee Wage Data Screen Print and Paystubs from [REDACTED]
- M-10 SNAP Review received June 1, 2015
- M-11 Advance Notice of Administrative Disqualification Hearing Waiver dated March 8, 2016
- M-12 West Virginia Income Maintenance Manual §§1.2E, 20.1 and 20.2
- M-13 Code of Federal Regulations Title 7 §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) A request for an Administrative Disqualification Hearing was received by the Board of Review from the Movant on March 23, 2016. The Movant contends that the Defendant has committed an Intentional Program Violation (IPV) and is recommending that she be disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP) for a period of 12 months.
- 2) The Defendant submitted a SNAP eligibility review form (M-10) to the Department on June 1, 2015. A Department caseworker conducted a phone interview with the Defendant on June 10, 2015. The Defendant reported (M-8) her household's only income was from her receipt of Supplemental Security Income (SSI). When questioned about earned income for her husband, the Defendant reported that he was unable to work to due to a "bad back".
- 3) The Department verified (M-9) with the Bureau of Employment Programs that the Defendant's husband, [REDACTED], had earnings with [REDACTED] for the first and second work quarters of 2015. The Department obtained paystubs for Mr. [REDACTED] from [REDACTED] for the month of June 2015.
- 4) The Department contended that the Defendant made a false statement during her June 2015 SNAP review by reporting that her husband was not employed. The result of the misrepresentation of her household's income was an overpayment of SNAP benefits (M-4) in the amount of \$1,737 issued to the Defendant (M-5) for which she was not entitled to receive.

APPLICABLE POLICY

West Virginia Income Maintenance Manual §1.2E states that it is the client's responsibility to provide information about his/her circumstances so the worker is able to make a correct decision about his/her eligibility.

West Virginia Income Maintenance Manual §20.2 states that when an Assistance Group (AG) has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation or Intentional Program Violation claim. The claim is the difference between the allotment the client received and the allotment he should have received.

West Virginia Income Maintenance §9.1A(2)h states the penalties for an IPV are as follows: 1st Offense: 1 year (Disqualification); 2nd Offense: 2 years (Disqualification); 3rd Offense: Permanent.

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 §9.1A(1) states that all individuals who reside in the same household who purchase and prepare their meals together must be included in the same SNAP AG. When an individual, who is included in an AG, is absent or is expected to be absent from the home for a full calendar month, he is no longer eligible to be included in the AG, and must be removed after proper notice.

DISCUSSION

The Defendant purported that she and her husband separated in the middle of June 2015, and she had no knowledge that he was working during that time. The Defendant testified that he was not staying overnight during their separation.

The Department provided verification that [REDACTED] was employed and receiving regular income since January 2015, months before the separation in June 2015. The Defendant's argument that she was unaware that her husband was employed full-time while residing in her home is unconvincing.

CONCLUSIONS OF LAW

Whereas the Movant provided clear and convincing evidence that the Defendant made a false statement regarding her household's income during her June 2015 SNAP review, the Defendant has committed an Intentional Program Violation.

DECISION

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

ENTERED this 4th day of May 2016

Kristi Logan
State Hearing Officer