



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

August 31, 2016

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 16-BOR-2054

Dear [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-2054

**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 June 7, 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 July 19, 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 12 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 application/review documents, signed July 24, 2012
- D-2 SNAP application/review documents, signed September 28, 2012
- D-3 SNAP application/review documents, signed October 5, 2012
- D-4 SNAP application/review documents, signed December 20, 2012
- D-5 SNAP application/review documents, signed June 24, 2013
- D-6 SNAP application/review documents, signed December 2, 2013
- D-7 Income verification for the Defendant from ██████████
- D-8 Statement from the Defendant, signed January 29, 2014
- D-9 Account statements from the ██████████ for the Defendant's checking account
- D-10 Account statements from the ██████████ for the Defendant's joint checking account

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 in the amount of \$9,029 between the months of July 2012 and March 2014.
- 2) The overissuance was based on the exclusion of multiple sources of income for the Defendant's household 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 the income on SNAP applications or reviews or on applications for related programs completed during this time period (Exhibits D-1, D-2, D-3, D-4, D-5, and D-6).
- 4) The Movant had unreported earned income (Exhibit D-7) and had unreported access to income in the form of deposits or transfers (Exhibit D-9) as well as unreported access to income received in a joint checking account (Exhibit D-10) during the period in question.
- 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 no prior IPV offenses.

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 (WVIMM), Chapter 10.3, lists both employment (§10.3.DD) and deposits into a bank account (§10.3.U) as income for SNAP purposes.

The WVIMM indicates a first offense IPV results in a one year disqualification from SNAP (§9.1.A.2.h).

DISCUSSION

The Movant requested this hearing to determine if the Defendant committed an intentional violation of SNAP regulations and the appropriate penalty, if any. The Movant's burden is to prove this by clear and convincing evidence and testimony. 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 concealed her household income on multiple application or review documents for SNAP. Policy for SNAP establishes both income from employment and income in the form of deposits or transfers from another individual as income for the program, and these income sources should have been reported by the Defendant. The dollar amount and duration of the resulting overissuance is sufficient to indicate intent. As the Defendant has no prior IPV offenses, the appropriate penalty is the twelve-month SNAP disqualification set by policy for a first IPV offense.

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 first offense the disqualification period is one year.

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 one year, beginning October 1, 2016.

ENTERED this ____ Day of August 2016.

**Todd Thornton
State Hearing Officer**