



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P.O. Box 1247
Martinsburg, WV 25402

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

August 16, 2016



RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-2140

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,

Lori Woodward
State Hearing Officer
Member, State Board of Review

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

cc: Addison Hamilton, WV DHHR

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

██████████,

Defendant,

v.

ACTION NO.: 16-BOR-2140

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

At the hearing, the Department appeared by Addison Hamilton, Criminal Investigator, Investigations and Fraud Management (IFM). Defendant failed to appear. Mr. Hamilton was sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-4 Combined Application and Review Form for Financial Assistance, Medical Assistance and Food Stamps and Rights and Responsibilities, signed and dated January 7, 2003, and copies unemployment verifications, November 2002 City National Bank statement, Verizon phone bill, P.S.D. bill, lot rent receipt, copies of driving licenses for ██████████, copies of social security cards for ██████████, and Food Stamp Allotment Determination printout (EFAD)
- M-5 Combined Application and Review Form for Financial Assistance, Medical Assistance and Food Stamps and Rights and Responsibilities, signed and dated

- July 3, 2003, AEL2 verification checklist dated July 3, 2003, Electronic Benefits Transfer Addendum, copy of paystub for [REDACTED], and case comments (CMCC) dated July 3, 2003
- M-6 Combined Application and Review Form for Financial Assistance, Medical Assistance and Food Stamps and Rights and Responsibilities, signed and dated January 12, 2004, and copy of Verizon phone bill and P.S.D. bill, EFAD printout, Electronic Benefits Transfer Addendum, and checklist
- M-7 Combined Application and Review Form for Financial Assistance, Medical Assistance and Food Stamps and Rights and Responsibilities, signed and dated February 3, 2005
- M-8 Combined Application and Review Form for Financial Assistance, Medical Assistance and Food Stamps and Rights and Responsibilities, signed and dated February 21, 2006
- M-9 Combined Application and Review Form for Financial Assistance, Medical Assistance and Food Stamps and Rights and Responsibilities, signed and dated February 9, 2007, copy of [REDACTED] driving license, earned income verifications for [REDACTED], Food Stamp Allotment Determination printout (EFAD)
- M-10 Combined Application and Review Form for Financial Assistance, Medical Assistance and Food Stamps and Rights and Responsibilities, signed and dated July 20, 2007
- M-11 Combined Application and Review Form for Financial Assistance, Medical Assistance and Food Stamps and Rights and Responsibilities, signed and dated July 22, 2008
- M-12 Combined Application and Review Form for Financial Assistance, Medical Assistance and Supplemental Nutrition Assistance Program, and Rights and Responsibilities, signed and dated November 14, 2008, copies of paystubs for [REDACTED], lot rent statement, P.S.D bill, garbage bill, electric bill, Food Stamp Allotment Determination printout (EFAD)
- M-13 Combined Application and Review Form for Financial Assistance, Medical Assistance and Supplemental Nutrition Assistance Program, and Rights and Responsibilities, signed and dated July 17, 2009, copy of [REDACTED] driving license, copies of paystubs for [REDACTED], P.S.D bill, garbage bill, electric bill
- M-14 Combined Application and Review Form for Financial Assistance, Medical Assistance and Supplemental Nutrition Assistance Program, and Rights and Responsibilities, signed and dated January 12, 2010, copy of [REDACTED] driving license, copies of paystubs for [REDACTED]
- M-15 Combined Application and Review Form for Financial Assistance, Medical Assistance and Supplemental Nutrition Assistance Program, and Rights and Responsibilities, signed and dated July 9, 2010, copy of [REDACTED] driving license and social security cards for [REDACTED], copy of paystub for [REDACTED] along with statement off work, printout of case comments (CMCC) for July 9, 2010, printout of Food Stamp Allotment Determination (EFAD)

- M-16 Combined Application and Review Form for Financial Assistance, Medical Assistance and Supplemental Nutrition Assistance Program, and Rights and Responsibilities, signed and dated January 4, 2011
- M-17 Combined Application and Review Form for Financial Assistance, Medical Assistance and Supplemental Nutrition Assistance Program, and Rights and Responsibilities, signed and dated July 12, 2011, driving license copies for [REDACTED], P.S.D bill
- M-18 Combined Application and Review Form for Financial Assistance, Medical Assistance and Supplemental Nutrition Assistance Program, and Rights and Responsibilities, signed and dated January 27, 2012, copy of paystubs for [REDACTED]
- M-19 Combined Application and Review Form for Financial Assistance, Medical Assistance and Supplemental Nutrition Assistance Program, and Rights and Responsibilities, signed and dated July 6, 2012, driving license copies for [REDACTED], P.S.D, water bill, electric bill, checklist
- M-20 Paper Application for School Clothing Allowance, July 3, 2003
- M-21 InRoads, on-line, Application for School Clothing Allowance, July 29, 2005
- M-22 Paper Application for School Clothing Allowance, July 28, 2006
- M-23 Paper Application for School Clothing Allowance, July 20, 2007
- M-24 Paper Application for School Clothing Allowance, July 17, 2009
- M-25 Paper Application for School Clothing Allowance, July 9, 2010
- M-26 Paper Application for School Clothing Allowance, July 6, 2012
- M-27 Printout Unearned Income Questions (AFUQ)
- M-28 Case Comments (CMCC) from Legacy Rapids eRAPIDS from May 6, 2003 to January 12, 2012
- M-29 Veterans Administration verification of Veteran benefits for [REDACTED] from December 1, 2005 through March 1, 2013
- M-30 Veterans Administration verification of Veteran benefits for [REDACTED] from January 1, 2003 through December 1, 2005
- M-31 Report of Overpayment Determination, January through June 2003
- M-32 Report of Overpayment Determination, July through December 2003
- M-33 Report of Overpayment Determination, January through May 2004
- M-34 Report of Overpayment Determination, February through July 2005
- M-35 Report of Overpayment Determination, February through July 2006
- M-36 Report of Overpayment Determination, August 2007 through January 2008
- M-37 Report of Overpayment Determination, November 2008 through June 2009
- M-38 Report of Overpayment Determination, July through December 2009
- M-39 Report of Overpayment Determination, January through June 2010
- M-40 Report of Overpayment Determination, July through December 2010
- M-41 Report of Overpayment Determination, January through June 2011
- M-42 Report of Overpayment Determination, July through December 2011
- M-43 Report of Overpayment Determination, January through June 2012
- M-44 Report of Overpayment Determination, July through September 2012

*Note, Exhibits marked as M-1, M-2, M-3, M-45 and M-46 were all copies of policy and federal regulations which judicial notice was taken and not admitted as part of the record

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of the witness and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) The Investigations and Fraud Management (IFM) unit of the West Virginia Department of Health and Human Resources (Department) is alleging an act of Intentional Program Violation (IPV) in the Defendant's case due to her withholding information about the household income affecting her eligibility for SNAP.
- 2) The Defendant completed applications/reviews for Supplemental Nutrition Assistance Program (SNAP) benefits (also known as "food stamps) on January 7, 2003 (Exhibit M-4), July 3, 2003 (Exhibit M-5), January 12, 2004 (M-6), February 3, 2005 (M-7), February 21, 2006 (M-8), February 9, 2007 (M-9), July 20, 2007 (M-10), February 22, 2008 (M-11), November 14, 2008 (M-12), February 17, 2009 (M-13), January 12, 2010 (M-14), July 9, 2010 (M-15), January 4, 2011 (M-16), July 12, 2011 (M-17), January 27, 2012 (M-18) and July 6, 2012 (M-19).
- 3) The Defendant reported her household assistance group included herself, her husband [REDACTED] and their two children on all applications/reviews.
- 4) On all occasions, the Defendant signed Rights and Responsibilities, certifying that the information she had provided to the Movant was true and correct. (Exhibits M-4 through 19)
- 5) The Veterans Administration benefit income that the Defendant's husband received since July 1, 2002 (Exhibits M-29 and M-30) was not reported on any of the SNAP applications/reviews made by the Defendant.
- 6) The Defendant made applications for School Clothing Allowance benefits in July 2003, 2005, 2006, 2007, 2009, 2010 and 2012 without disclosing the Veteran Administration benefit income received by the Defendant's husband. (Exhibits M-20 through 26)
- 7) The Defendant's act of concealing her husband's Veterans Administration benefit income resulted in over-issuance of SNAP benefits during the periods from January 2003 through May 2004, February 2005 through July 2005, February 2006 through July 2006, August 2007 through January 2008, and November 2008 through September 2012.

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)h 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.

DISCUSSION

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

The Movant clearly established that the Defendant withheld information regarding the Veterans Administration benefits income her husband had been receiving since 2002. The Defendant omitted this information on every application/review from January 2003 through July 7, 2012. By failing to report the household income, the Defendant caused an over-issuance of SNAP benefits. The Movant established by clear and convincing evidence the intent of the Defendant to provide false statements to receive SNAP benefits for which she would not have otherwise been entitled, and thus committed an Intentional Program Violation.

CONCLUSIONS OF LAW

- 1) The Defendant's intentional withholding of information meet the definition of an Intentional Program Violation.
- 2) Having committed an Intentional Program Violation and this being the Defendant's first offense, the Defendant is subject to a 12-month disqualification from SNAP.

DECISION

It is the ruling of the State Hearing Officer that the Defendant committed an Intentional Program Violation. The Defendant will be disqualified from participation in SNAP for a period of twelve (12) months to begin effective September 1, 2016.

ENTERED this 16th Day of August 2016.

**Lori Woodward
State Hearing Officer**