



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

September 20, 2016

[REDACTED]  
[REDACTED]  
[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 16-BOR-2324

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,

Kristi Logan  
State Hearing Officer  
Member, State Board of Review

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

cc: Christine Allen, Mercer County DHHR

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

██████████,

**Defendant,**

v.

**Action Number: 16-BOR-2324**

**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 July 22, 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 September 6, 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 thus be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Department appeared by Christine Allen, Repayment Investigator. The Defendant failed to appear. The Department's representative was sworn and the following documents were admitted into evidence.

**Movant's Exhibits:**

- |     |  |
|-----|--|
| M-1 | Hearing Summary                                      |
| M-2 | SNAP Claim Determination Form                        |
| M-3 | SNAP Issuance History-Disbursement Screen Print      |
| M-4 | SNAP Allotment Determination Screen Prints           |
| M-5 | SNAP Claim Calculation Sheets                        |
| M-6 | Case Members History Screen Print                    |
| M-7 | Case Comments from July 2015-April 2016              |
| M-8 | inROADS SNAP Application submitted November 13, 2015 |

M-9	Notice of Decision dated November 18, 2015
M-10	Front-End Fraud Unit Investigative Findings dated April 4, 2016
M-11	██████████ Marriage Record
M-12	Statement from ██████████ dated March 14, 2016
M-13	Employment Verification from ██████████
M-14	Benefit Recovery Referral Screen Print
M-15	Appointment Letter dated May 20, 2016
M-16	Advance Notice of Administrative Disqualification Hearing Waiver dated July 11, 2016
M-17	West Virginia Income Maintenance Manual §1.2E
M-18	West Virginia Income Maintenance Manual §9.1A
M-19	West Virginia Income Maintenance Manual §10.3DD
M-20	West Virginia Income Maintenance Manual §20
M-21	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) The Department alleged that the Defendant committed an Intentional Program Violation by falsely reporting his household composition and requested that a twelve (12) month penalty be imposed against him.
- 2) The Defendant was notified of the hearing by scheduling order mailed on August 2, 2016. The Defendant failed to appear for the hearing or provide good cause for his 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 applied for SNAP benefits on July 23, 2015. The Defendant reported (M-7) that his household consisted of his finance, ██████████ and her three (3) children. The application was denied due to excessive income for the household.
- 4) The Defendant reapplied for SNAP benefits on November 13, 2015. He reported (M-7 and M-8) no other members in his household and no income. SNAP benefits were approved based on the information provided.
- 5) The Department verified that the Defendant and ██████████ were married (M-11) on July 21, 2015. The Department also received a statement (M-12) from a neighbor of the Defendant's confirming that the Defendant and ██████████ had been residing together since the summer of 2015.
- 6) The Department obtained verification (M-13) of ██████████ earnings from ██████████, which exceeded the allowable income limit for SNAP benefits.

- 7) The Department contended that the Defendant made a false statement on his November 2015 SNAP application by reporting only himself as residing in his household. The result of the misrepresentation of his household composition was an overpayment (M-2 and M-5) of SNAP benefits in the amount of \$1,086.

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual §9.1A(1)(b)(2) states that individuals who are legally married and residing together must be in the same SNAP Assistance Group (AG).

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.

### **DISCUSSION**

Federal regulations define an Intentional Program Violation as making a false statement related to the acquisition of SNAP benefits.

The Defendant reported no other members in his household during the November 2015 SNAP application.

The Department provided evidence that the Defendant was residing with his legal spouse, [REDACTED], since their marriage in July 2015. [REDACTED] had earnings which were not included in the determination of the Defendant's eligibility for SNAP benefits.

The Defendant made a false statement at application regarding his household composition, which meets the definition of an Intentional Program Violation.

### **CONCLUSIONS OF LAW**

- 1) The Defendant made a false statement at his November 2015 SNAP application by reporting no other members in his household.
- 2) The Department provided irrefutable evidence that the Defendant was residing with his legal spouse, who had earnings.
- 3) The act of making a false statement to obtain SNAP benefits constitutes an Intentional Program Violation.
- 4) The penalty for a first offense Intentional Program Violation is exclusion from participation in SNAP for (12) months.

### **DECISION**

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation. As this is the Defendant's second offense, she will be excluded from participation in the program for twelve (12) months, effective November 2016.

**ENTERED this 20<sup>th</sup> day of September 2016**

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**Kristi Logan  
State Hearing Officer**