



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

November 17, 2016

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-2714

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

cc: Christine Allen, [REDACTED] County DHHR

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

████████████████████,

Defendant,

v.

Action Number: 16-BOR-2714

**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 September 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 October 27, 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 Christine Allen, Repayment Investigator. The Defendant failed to appear. The Movant's representative was sworn and the following documents were admitted into evidence.

Movant's Exhibits:

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|-----|---|
| 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 | Case Members History Screen Print |
| M-6 | Case Comments from January 2016-July 2016 |
| M-7 | SNAP Periodic Review Form (PRC2) dated May 3, 2016 |
| M-8 | Front-End Fraud Unit Investigative Findings dated July 18, 2016 |

| | |
|------|--|
| M-9 | Landlord Verification dated July 12, 2016 |
| M-10 | Benefit Recovery Referral Screen Print |
| M-11 | Appointment Letter dated August 25, 2016 |
| M-12 | Advance Notice of Administrative Disqualification Hearing Waiver |
| M-13 | West Virginia Income Maintenance Manual §1.2(E) |
| M-14 | West Virginia Income Maintenance Manual §8.2(A) |
| M-15 | West Virginia Income Maintenance Manual §20 |
| M-16 | 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 Movant alleged that the Defendant committed an Intentional Program Violation by falsely reporting her residency and requested that a twelve (12) month penalty be imposed against her.
- 2) The Defendant was notified of the hearing by scheduling order mailed on September 27, 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 a SNAP redetermination on May 3, 2016. She reported (M-7) that her address was [REDACTED]. SNAP benefits were recertified based on the information provided.
- 4) The Movant received verification from [REDACTED] (M-9) in [REDACTED], that the Defendant moved there on April 22, 2016.

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 §1.2(E) 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. Failure to fulfill this obligation may result in one or more of the following

actions: denial of the application, closure of the active AG, removal of the individual from the AG, repayment of benefits, and/or a reduction in benefits.

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 §8.2 states that to be eligible for SNAP benefits, the client must live within the borders of West Virginia.

DISCUSSION

Policy stipulates that an individual must reside within the borders of West Virginia to be eligible for SNAP benefits in this state.

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

The Defendant reported that she resided in West Virginia at her May 2016 SNAP review.

The Movant provided verification that the Defendant moved to [REDACTED] prior to her SNAP redetermination. The Defendant made a false statement at her May 2016 SNAP review regarding her state of residency, which meets the definition of an Intentional Program Violation.

CONCLUSIONS OF LAW

- 1) The Defendant made a false statement at her May 2016 SNAP redetermination by reporting that she resided in West Virginia.
- 2) The Movant provided irrefutable evidence that the Defendant moved to [REDACTED] in April 2016.
- 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 twelve (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 first offense, she will be excluded from participation in the program for twelve (12) months, effective January 2017.

ENTERED this 17th day of November 2016

**Kristi Logan
State Hearing Officer**