



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

March 16, 2016



RE: [REDACTED] v. WVDHHR
ACTION NO.: 15-BOR-3674

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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

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

cc: Debra Carey, WVDHHR

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

██████████,

Defendant,

v.

Action Number: 15-BOR-3674

**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 December 16, 2015. 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 Section 273.16. The hearing was convened on February 17, 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 (IPV) and should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Department appeared by Debra Carey, Repayment Investigator, WVDHHR. The Defendant failed to appear.

All participants were sworn and the following documents were admitted into evidence.

Movant's Exhibits:

M-1	ADH Hearing Summary
M-2	Food Stamp Claim Determinations for period of November 2014-March 2015
M-3	SNAP Issuance History-Disbursement
M-4	Food Stamp Allotment Determination
M-5	Food Stamp Claim Calculation Sheet
M-6	Case Members History
M-7	Case Comments for the period of October 2, 2014 to July 30, 2015
M-8	Temporary Order, In the Family Court of ████████ County, West Virginia, entered September 24, 2014, and Modification Order entered on December 3, 2014

M-9	School Attendance Verification for [REDACTED]
M-10	Medicaid redetermination form signed by Defendant on September 16, 2014
M-11	Supplemental Nutrition Assistance Program (SNAP) 6 or 12-Month Contact Form signed by Defendant on September 16, 2014
M-12	Electronic mail transmissions from [REDACTED]
M-13	Benefit Recovery Referral information
M-14	Letter to Defendant from Debra Carey dated November 16, 2015
M-15	Advance Notice of Administrative Disqualification Hearing Waiver dated December 1, 2015, and Waiver of Administrative Disqualification Hearing
M-16	West Virginia Income Maintenance Manual Chapter 1.2.E
M-17	West Virginia Income Maintenance Manual Chapters 20.1 and 20.2
M-18	Code of Federal Regulations Section 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 West Virginia Department of Health and Human Resources, hereinafter Movant, on December 16, 2015. The Movant contends that the Defendant has committed an Intentional Program Violation (IPV) and is recommending that the Defendant be disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, for a period of 12 months.
- 2) Notification of the February 17, 2016 hearing was mailed to the Defendant on or about January 7, 2016, via First Class U.S. Mail, as the Defendant is a current recipient of Department benefits and resides at a confirmed address.
- 3) The hearing convened as scheduled at 11 a.m., and as of 11:15 a.m., the Defendant failed to appear. As set forth in the Code of Federal Regulations found at §7 CFR 273.16 (e) (4), and the West Virginia Department of Health and Human Resources Common Chapters Manual Chapter 740.20, the hearing was conducted without the Defendant in attendance.
- 4) Debra Carey, Repayment Investigator for the Department, testified that the Defendant submitted Medicaid and SNAP reviews to the WVDHHR on September 24, 2014 (M-10 and M-11), and failed to report that her son, [REDACTED], was no longer residing in her home.

- 5) A Temporary Order entered in [REDACTED] County Family Court (M-8) indicates that a Family Court judge named [REDACTED] father as his primary residential parent and custodian, and the Defendant was ordered to relinquish the child to his father on September 27, 2014. The order indicates that the matter was heard by the judge on August 26, 2014 and September 18, 2014.
- 6) Attendance Verification information from [REDACTED] (M-9) indicates that the Defendant's son enrolled at [REDACTED] on March 21, 2011, and transferred to [REDACTED] in [REDACTED], effective October 21, 2014.
- 7) As a result of the Defendant's failure to report her son's departure from the home, the Defendant received \$815 in SNAP benefits to which she was not entitled for the period of November 2014 through March 2015 (see Exhibit M-2).

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 1.2.E (M-16) 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 Chapter 20.2 (M-17) 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 Manual Chapter 20.2(C)(2) provides that once an IPV (Intentional Program Violation) is established, a disqualification penalty is imposed on the AG members who committed the IPV. The penalties are as follows: (Chapter 9.1, A, 2, h) 1st Offense: 1 year (Disqualification); 2nd Offense: 2 years (Disqualification); 3rd Offense: Permanent.

West Virginia Income Maintenance Manual Chapter 9.1.A states that 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

Evidence demonstrates that the Defendant submitted Medicaid and SNAP reviews to the Respondent on September 24, 2014, failing to report that her son's father had been granted custody of the child, and that she had been ordered to relinquish the child to his father on September 27, 2014. As the matter had been heard in the Family Court of [REDACTED] County, West Virginia, on September 18, 2014, the Defendant clearly had knowledge that the child would no longer be in her home at the time of the case reviews. Therefore, the Defendant committed an Intentional Program Violation.

CONCLUSIONS OF LAW

The Department acted correctly in proposing the Defendant's disqualification from the SNAP based on the commission of an Intentional Program Violation. The one-year disqualification period will begin effective May 1, 2016.

DECISION

The Department's proposal to apply a one (1)-year SNAP benefit disqualification is **upheld**.

ENTERED this 16th Day of March 2016.

**Pamela L. Hinzman
State Hearing Officer**