



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

March 14, 2016

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-3690

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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

cc: Cassandra Burns, Department Representative

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

████████████████████,

Defendant,

v.

Action Number: 15-BOR-3690

**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 18, 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 §273.16. The hearing was convened on February 9, 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 Cassandra Burns. Juna Woodall observed the hearing but did not participate. The Defendant was notified of the hearing but failed to appear. All witnesses were sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- | | |
|-----|--|
| D-1 | Code of Federal Regulations, 7 CFR §273.16 |
| D-2 | SNAP claim determination forms and supporting documentation |
| D-3 | Screen prints detailing out-of-state SNAP usage |
| D-4 | SNAP review documents signed February 16, 2012 |
| D-5 | Screen print of comments from the Movant's data system regarding the Defendant's case, entry dates February 29, 2012 through June 30, 2014 |
| D-6 | West Virginia Income Maintenance Manual (WVIMM), §1.2 |
| D-7 | WVIMM, §20.2 |
| D-8 | WVIMM, §20.6 |

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 from March 2012 to July 2014 totaling \$4986. (Exhibit D-2)
- 2) The overissuance was based on the Defendant's receipt of SNAP benefits in West Virginia while residing in the state of [REDACTED]
- 3) The Movant regularly used her SNAP benefits in [REDACTED], during the period in question. (Exhibit D-3)
- 4) The Movant reported an address in [REDACTED], West Virginia, over 150 miles from [REDACTED].
- 5) The Movant took action to close the Defendant's case, with the assigned caseworker noting on June 30, 2014, that an investigator for the Movant discovered the Defendant's reported address does not exist. (Exhibit D-5)
- 6) The Department contended the actions of the Defendant to falsely report her address and intent to reside in West Virginia constitute an Intentional Program Violation (IPV), and requested this hearing for the purpose of making that determination.
- 7) 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 "made a false or misleading statement, or misrepresented, concealed or withheld facts" for purposes of SNAP eligibility.

The West Virginia Income Maintenance Manual, Chapter 9.1.A.2.h, indicates a first offense IPV results in a one year disqualification from SNAP.

The West Virginia Income Maintenance Manual, Chapter 1.2.E, reads "the client's responsibility is to provide information about his circumstances so the Worker is able to make a correct decision about his eligibility," and indicates that failure to fulfill this obligation may result in denial, closure, or repayment of benefits.

The West Virginia Income Maintenance Manual, Chapter 8.2, reads “The client must live within the borders of West Virginia.”

DISCUSSION

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

Testimony and evidence clearly show an action that meets the codified IPV definition. The Defendant reported a false address on her SNAP review documents. The Defendant consistently made out-of-state SNAP transactions at a proximity that demonstrated she had no intent to reside in the state of West Virginia when she applied. The duration and dollar amount of the corresponding SNAP overissuance clearly indicates intent.

CONCLUSION OF LAW

Because the Defendant has committed a first-offense IPV, the Department must disqualify the Defendant from receipt of SNAP benefits for one year.

DECISION

The proposed IPV disqualification of the Defendant is upheld. The Defendant will be disqualified from receipt of SNAP benefits for a period of one year, beginning April 1, 2016.

ENTERED this ____ Day of March 2016.

**Todd Thornton
State Hearing Officer**