



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

Jim Justice  
Governor

Bill J. Crouch  
Cabinet Secretary

June 28, 2017



RE: [REDACTED] v. WVDHHR  
ACTION NO.: 17-BOR-1166

Dear Mr. [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: Elizabeth Mullins, Department Representative

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

██████████,

**Defendant,**

**v.**

**Action Number: 17-BOR-1166**

**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 January 30, 2017. 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 May 10, 2017.

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 Elizabeth Mullins. The Defendant was present for the hearing and appeared by her attorney, ██████████. 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 form and supporting documentation                                 |
| D-3 | SNAP application and review documents, signed May 23, 2014, May 25, 2015, and May 24, 2016 |
| D-4 | Income verification from the Movant's data system  |
| D-5 | West Virginia Income Maintenance Manual (WVIMM), §1.2                                      |
| D-6 | WVIMM, §20.2   |
| D-7 | 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.
- 2) This overissuance was based on the exclusion of the Defendant's child support income from the calculation of her SNAP benefits. (Exhibit D-2)
- 3) The Defendant's child support income was not listed on three SNAP application or review documents signed by the Defendant. (Exhibit D-3)
- 4) The Movant collects child support payments from absent parents and redirects them to custodial parents.
- 5) The Movant was the payor of the child support income to the Defendant. (Exhibit D-4)
- 6) SNAP eligibility workers for the Movant have access to the WV Bureau of Child Support Enforcement (BCSE) data system that shows child support payments.
- 7) SNAP eligibility workers for the Movant are prompted, in the form of "alerts," to update the child support income listed in SNAP cases.
- 8) The Movant contended the Defendant committed an Intentional Program Violation (IPV), and requested this hearing for the purpose of making that determination.

### **APPLICABLE POLICY**

The Code of Federal Regulations, 7 CFR §273.16(c) defines an IPV as having intentionally "concealed or withheld facts" for purposes of SNAP eligibility.

The WVIMM, §20.2.C.1, notes that Unintentional Program Violation (UPV) claims are established when an "error by the Department resulted in the overissuance" and when an "unintentional error made by the client resulted in the overissuance."

### **DISCUSSION**

The Movant requested this hearing to determine if the Defendant committed an intentional violation of SNAP regulations and the appropriate penalty, if any. To show the Defendant committed an IPV, the Movant must prove, by clear and convincing evidence, that the Defendant intentionally concealed or withheld facts pertinent to her SNAP eligibility.

The testimony and evidence presented by the Movant clearly show an error that could have been prevented by simple case maintenance on the part of the SNAP eligibility worker. The Movant provided the income source in question to the Defendant, and provides its eligibility workers with the ability to view payment history and update SNAP cases accordingly. The primary responsibility for this error lies with the Movant.

The Defendant signed three SNAP application or review documents that did not list this income. However, this error was discovered when the Defendant did report this income on an application for another program administered by the Movant. The Defendant was told she did not need to report child support income because it was “populated” automatically. The Defendant signed application and review documents thinking they were accurate. The Defendant’s child support income was listed on the first of these documents, but with a monthly amount of zero – which should have served as an additional reminder for the eligibility worker to check the appropriate data system for the correct child support amount. The documents do not show intent on the part of the Defendant.

Policy defines SNAP issuance errors caused either by the Department or by a client action lacking intent as UPVs, or unintentional program violations. The Department has shown that the SNAP issuance error in this case is a UPV, rather than an IPV.

### **CONCLUSION OF LAW**

Because the Movant failed to provide clear and convincing testimony and evidence that the Defendant committed an act that meets the codified IPV definition found at 7 CFR §273.16(c), the Movant must not apply the corresponding SNAP disqualification penalty.

### **DECISION**

It is the finding of the State Hearing Officer that the Defendant did not commit an Intentional Program Violation.

**ENTERED this \_\_\_\_ Day of June 2017.**

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**Todd Thornton  
State Hearing Officer**