

STATE OF WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES OFFICE OF INSPECTOR GENERAL

Bill J. Crouch **Cabinet Secretary**

Board of Review State Capitol Complex Building 6, Room 817-B Charleston, West Virginia 25305 Telephone: (304) 558-0955 Fax: (304) 558-1992 M. Katherine Lawson **Inspector General**

August 10, 2018



RE:

v. WVDHHR

ACTION NO.: 18-BOR-1865

Dear Ms.

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: Appellant's Recourse to Hearing Decision

Form IG-BR-29

April Stuckey, Department Representative cc:

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES BOARD OF REVIEW

Defendant.

v. Action Number: 18-BOR-1865

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 provided the Movant on June 13, 2018. 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 July 24, 2018.

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 April Stuckey. Appearing as a witness for the Movant was Edgar Buster. The Defendant was notified of the hearing but failed to appear, resulting in the hearing being held in the Defendant's absence. The witnesses were sworn and the following documents were admitted into evidence.

EXHIBITS

Department's Exhibits:

D-1 Data system screen print regarding the Defendant's SNAP case

Benefit Recovery Referral

Referral Date: November 28, 2017

D-2 West Virginia Income Maintenance Manual (WVIMM)

Chapter 1 (excerpt)

§1.2.4

D-3	WVIMM Chapter 3 (excerpt) §3.2.1.A
D-4	SNAP repayment claim determination documents Claim determination form SNAP Issuance history and claim calculation sheets Income verification for
D-5	Code of Federal Regulations 7 CFR §273.16 (excerpt)
D-6	Rights and Responsibilities form Signed by the Defendant and Date signed: May 26, 2016
D-7	SNAP application/review documents Date signed: June 29, 2017
D-8	Note from Date received: September 7, 2017
D-9	Front-End Fraud Unit Investigative Findings form Statement from dated November 15, 2017 Statement from dated November 15, 2017 Employment and income verification for Screen prints regarding the Defendant's child support case
D-10	WVIMM Chapter 11 (excerpt) §11.6.1

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 the Defendant received an overissuance of SNAP benefits between the months of July 2017 and November 2017. (Exhibit D-4)
- 2) The basis of the overissuance was the exclusion of the Defendant's spouse, from the Defendant's assistance group ("AG") and the exclusion of his income in determining the amount of the Defendant's SNAP benefits. (Exhibit D-4)

- 3) Mr. and his income were not considered in the determination of the Defendant's SNAP benefit amount because the Defendant reported him as no longer residing in her home on a SNAP review document she signed on June 29, 2017. (Exhibit D-7)
- Edgar Buster, a Front-End Fraud Unit Investigator for the Movant, investigated the Defendant's case and compiled his findings in a report, (Exhibit D-9) which includes a statement taken from on November 15, 2017. Ms. statement reads, in pertinent part, "I have lived at the above address for the past 7 years. I live with my daughter ..."
- 5) The Movant contended the action of the Defendant to falsely report her household composition and income constitutes an Intentional Program Violation (IPV) and requested this hearing for the purpose of making that determination.
- 6) The Defendant has no prior IPV offenses.

APPLICABLE POLICY

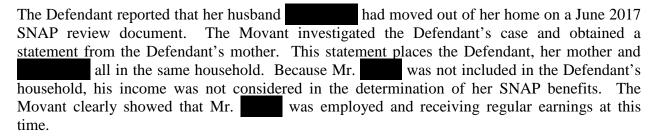
The Code of Federal Regulations, 7 CFR §273.16(c) defines an IPV as having intentionally "made a false or misleading statement" for purposes of SNAP eligibility.

The West Virginia Income Maintenance Manual (WV IMM), Chapter 3.2.1.B.5, indicates a first offense IPV results in a one-year disqualification from SNAP.

DISCUSSION

The Defendant did not appear for the hearing, and as such could not dispute the testimony and evidence presented by the Movant.

To show the Defendant committed an IPV, the Movant must prove, by clear and convincing evidence, that the Defendant intentionally concealed or withheld information pertinent to her SNAP eligibility.



The testimony and evidence presented by the Movant clearly show an action that meets the codified IPV definition. As the Defendant has no prior IPV disqualifications, the Movant is correct to disqualify the Defendant from SNAP participation for one year.

CONCLUSION OF LAW

Because the action of the Defendant constitutes an IPV, the Movant must disqualify the Defendant from receipt of SNAP benefits, and because the IPV is a first offense the disqualification period is one year.

DECISION

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation (IPV). The Defendant will be disqualified from receipt of SNAP benefits for a period of one year, beginning September 1, 2018.

ENTERED thisDay of Aug	gust 2018.
	Todd Thornton
	State Hearing Officer