



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

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Cabinet Secretary**

**Board of Review
State Capitol Complex
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Charleston, West Virginia 25305
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**M. Katherine Lawson
Inspector General**

August 10, 2018

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 18-BOR-1865

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

cc: April Stuckey, Department Representative

**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 ██████████, requested by 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 [REDACTED]
- D-5 Code of Federal Regulations
7 CFR §273.16 (excerpt)
- D-6 Rights and Responsibilities form
Signed by the Defendant and [REDACTED]
Date signed: May 26, 2016
- D-7 SNAP application/review documents
Date signed: June 29, 2017
- D-8 Note from [REDACTED]
Date received: September 7, 2017
- D-9 Front-End Fraud Unit Investigative Findings form
Statement from [REDACTED] dated November 15, 2017
Statement from [REDACTED] dated November 15, 2017
Employment and income verification for [REDACTED]
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, [REDACTED], 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. [REDACTED] 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)
- 4) 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 [REDACTED] on November 15, 2017. Ms. [REDACTED] statement reads, in pertinent part, "I have lived at the above address for the past 7 years. I live with my daughter [REDACTED], [REDACTED]..."
- 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 Defendant reported that her husband [REDACTED] had moved out of her home on a June 2017 SNAP review document. The Movant investigated the Defendant's case and obtained a statement from the Defendant's mother. This statement places the Defendant, her mother and [REDACTED] all in the same household. Because Mr. [REDACTED] was not included in the Defendant's household, his income was not considered in the determination of her SNAP benefits. The Movant clearly showed that Mr. [REDACTED] was employed and receiving regular earnings at this time.

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 this ____ Day of August 2018.

**Todd Thornton
State Hearing Officer**