



**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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**Jolynn Marra
Interim Inspector General**

August 19, 2019

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 19-BOR-1754

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: Elizabeth Mullins, Department Representative

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

[REDACTED],

Defendant,

v.

Action Number: 19-BOR-1754

**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 [REDACTED], requested by the Movant on May 21, 2019. 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 June 26, 2019.

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 should thus be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Movant appeared by Elizabeth Mullins. The Defendant was notified of the hearing but failed to appear, resulting in the hearing being held in the Defendant's absence. The witness was sworn and the following documents were admitted into evidence.

EXHIBITS

Department's Exhibits:

- | | |
|-----|--|
| D-1 | Code of Federal Regulations
7 CFR §273.16 |
| D-2 | Benefit Recovery Referral screen print
Referral Date: February 28, 2019 |
| D-3 | SNAP application documents
Date signed: January 2, 2019 |

- D-4 SNAP Claim Determination form, calculation sheets and data system screen prints
- D-5 Court Order/Circuit Court of [REDACTED] County, West Virginia
Screen prints from Movant's data system
- D-6 West Virginia Income Maintenance Manual (WVIMM)
Chapter 1, §1.2.4
- D-7 WVIMM
Chapter 11, §11.2
- D-8 WVIMM
Chapter 11, §11.6
- D-9 ADH request documents and scheduling order

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 between January 2019 and March 2019 in the amount of \$478. (Exhibit D-4)
- 2) The basis of the overissuance was incorrect household composition for the Defendant's SNAP case.
- 3) The household composition of the Defendant's SNAP case was in error because the Defendant reported her child ("Child [REDACTED]") in her home on a January 2, 2019 SNAP application document. (Exhibit D-3)
- 4) The Movant documented that the parental rights of the Defendant with regard to Child AB were terminated by order of the Circuit Court of [REDACTED] County, West Virginia (Exhibit D-5) on December 3, 2018.
- 5) This court order (Exhibit D-5) additionally indicated that the Defendant had "...effectively abandoned the respondent child, [Child [REDACTED]]..."
- 6) The Movant contended the false statement of the Defendant regarding her household composition constitutes 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 “concealed or withheld facts” 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 facts presented by the Movant.

To show the Defendant committed an IPV, the Movant must provide clear and convincing evidence that the Defendant intentionally made a false statement pertinent to her SNAP eligibility.

The testimony and evidence presented by the Movant show a false statement by the Defendant that meets the codified IPV definition. The Defendant reported Child [REDACTED] in her home on a January 2, 2019 SNAP application. This document (Exhibit D-3) requested a list of household members, if those household members purchase and prepare their meals together and included a statement on the signature page that reads, “Under penalty of perjury, I certify that the statements are true and correct.” The Defendant listed Child [REDACTED] in her home and indicated they purchase and prepare meals together as a family (Exhibit D-3). Approximately one month before this application, the Defendant’s parental rights for Child [REDACTED] had been terminated by court action (Exhibit D-5) after she abandoned the child. The Movant’s Child Protective Services (CPS) unit was aware of the Defendant’s terminated parental rights, but the Defendant certified an untrue statement as true and this false statement resulted in an overissuance of the Defendant’s SNAP benefits from January 2019 through March 2019 in the amount of \$478.

The Movant has proven by clear and convincing evidence that the Defendant committed an IPV. 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 October 1, 2019.

ENTERED this ____ Day of August 2019.

**Todd Thornton
State Hearing Officer**