



**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**

**Jolynn Marra  
Interim Inspector General**

January 29, 2019

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 18-BOR-2607

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**

██████████,

**Defendant,**

v.

**Action Number: 18-BOR-2607**

**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 October 22, 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 December 4, 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 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<br>7 CFR §273.16            |
| D-2 | SNAP Claim Determination form and calculation details   |
| D-3 | SNAP review documents<br>Date signed: February 17, 2017 |

- D-4            SNAP review documents  
Date signed: July 27, 2017
- D-5            Data system screen print from the Defendant's SNAP case  
Data Exchange – New Hire Details (screen print)  
Match Date: February 1, 2017
- D-6            Data exchange screen print regarding the Defendant  
Bureau of Employment Programs – Employee Wage Data (screen print)  
Print date: November 15, 2018
- D-7            West Virginia Income Maintenance Manual (WVIMM) excerpts  
Chapter 1, §1.2.4  
Chapter 11, §11.2
- D-8            WVIMM  
Chapter 11, §11.2
- D-9            WVIMM  
Chapter 11, §11.6
- D-10          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 March 2017 and December 2017.
- 2) The basis of the overissuance was household income not considered in the determination of the SNAP benefit amount for the Defendant.
- 3) This income – the Defendant's wages from employment – was not considered in the determination of the Defendant's SNAP benefit level because it was not reported by the Defendant on two separate SNAP review documents she signed. (Exhibits D-3 and D-4)
- 4) The Movant contended the action of the Defendant to conceal information regarding her household income constitutes an Intentional Program Violation (IPV) and requested this hearing for the purpose of making that determination.
- 5) 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 concealed or withheld facts pertinent to her SNAP eligibility.

The testimony and evidence presented by the Movant clearly show repeated actions by the Defendant that meet the codified IPV definition. The Defendant made false statements on two separate SNAP review documents by reporting no income while she was employed and receiving regular wages. The Defendant left blank a section of her February 2017 SNAP review document (Exhibit D-3, item #6) requesting information about work, employer details and wage amounts. On her July 2017 SNAP review document (Exhibit D-4, item #4), the Defendant explicitly answered “no” to a question asking, “Has your household’s gross earned income (including earnings from self-employment) changed by more than \$100 from the amount above?” in reference to the zero-income amount that was listed on the document as being used for her SNAP budget determination. According to documentation available to the Movant, the Defendant was hired for employment on November 22, 2016 (Exhibit D-5) and was receiving quarterly wages from that employer from the fourth quarter of 2016 through the first quarter of 2018.

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 March 1, 2019.

**ENTERED this \_\_\_\_ Day of January 2019.**

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**Todd Thornton  
State Hearing Officer**