



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

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Cabinet Secretary**

**Board of Review
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**Jolynn Marra
Interim Inspector General**

January 29, 2019



RE: [REDACTED] v. WVDHHR
ACTION NO.: 18-BOR-2610

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: Brian Shreve, Department Representative

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

██████████,

Defendant,

v.

Action Number: 18-BOR-2610

**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 23, 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 Brian Shreve. 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 | Data system screen print from the Defendant's SNAP case
Benefit Recovery Referral (screen print)
Referral Date: August 10, 2018 |
| D-3 | SNAP Claim Determination form and calculation sheets |

- D-4 Data system screen print from the Defendant's SNAP case
Case Comments (screen print)
Entry Dates: March 13, 2018 – August 10, 2018
- D-5 Data system screen prints from the Defendant's SNAP case
Data Exchange – New Hire Details (screen print)
Employment (screen print)
- D-6 Income verification for the Defendant
Bureau of Employment Programs – Employee Wage Data (screen print)
Pay Statements from employer ([REDACTED])
Pay dates: July 11, 2018 – August 8, 2018
- D-7 SNAP review documents
Date signed: February 27, 2018
- D-8 Data system screen print from the Defendant's SNAP case
Case Comments (screen print)
Entry Dates: October 10, 2017 – March 8, 2018
- D-9 West Virginia Income Maintenance Manual (WVIMM) excerpt
Chapter 1, §1.2.4
- D-10 ADH request documents

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 April 2018 and September 2018.
- 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 earned income of the Defendant's husband – was not considered in the determination of the Defendant's SNAP benefit level because it was not reported by the Defendant on SNAP review documents she signed on February 27, 2018. (Exhibit D-7)
- 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 an action by the Defendant that meets the codified IPV definition. The Defendant made a false statement on her February 27, 2018 SNAP review documents by reporting no household earned income while her husband was employed and receiving regular wages. The Defendant 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 (Exhibit D-7, Section 4 – *Household Earned Income*). According to documentation available to the Movant, the husband of the Defendant was hired for employment on January 29, 2018 (Exhibit D-5) and was receiving quarterly wages from that employer during the first three quarters of 2018 (Exhibit D-6).

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.

**Todd Thornton
State Hearing Officer**