



**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
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**Jolynn Marra
Interim Inspector General**

February 6, 2019

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 18-BOR-2718

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: Cassandra Burns, Department Representative

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

██████████,

Defendant,

v.

Action Number: 18-BOR-2718

**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 November 8, 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 January 8, 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 thus should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Movant appeared by Cassandra Burns. 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 | Report of Overpayment Determination |
| D-3 | Agreed-Upon Dispositional Order: Indictment Dismissal Order
Circuit Court of ██████████ County, West Virginia
Date issued: October 12, 2018 |

D-4	ADH request documents
D-5	Bank statements for the Defendant Statements dated: December 2014 – October 2016 (partial)
D-5a	Bank statements for the Defendant Statements dated: October 2016 (partial) – December 2017
D-6	Signed statement from the Defendant Date signed: January 5, 2018
D-7	SNAP review documents Date signed: October 26, 2014
D-8	SNAP review documents Date signed: April 28, 2015
D-9	SNAP review documents Date signed: June 2, 2015
D-10	SNAP review documents Date signed: November 20, 2015
D-11	SNAP review documents Date signed: April 25, 2016
D-12	SNAP review documents Date signed: November 1, 2016
D-13	SNAP review documents Date signed: May 1, 2017
D-14	SNAP review documents Date signed: November 1, 2017
D-15	West Virginia Income Maintenance Manual (WVIMM) Chapter1, §1.2.E (excerpt)
D-16	WVIMM Chapter 20, §20.2
D-17	WVIMM Chapter 20, §20.6

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 \$11,727 overissuance of SNAP benefits between December 2014 and December 2017. (Exhibit D-2)
- 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 – deposits into a bank account accessible to the Defendant – was not considered in the determination of the Defendant’s SNAP benefit level because it was not reported by the Defendant on multiple SNAP review documents that she signed during the overissuance period. (Exhibits D-7, D-8, D-9, D-10, D-11, D-12, D-13 and D-14)
- 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 numerous false statements regarding her household income. The Defendant shared a joint checking account with [REDACTED] (Exhibit D-5), had a debit card that gave her access to this account (Exhibit D-6), and did not report the deposits into this shared account during her SNAP eligibility reviews (Exhibits

D-7, D-8, D-9, D-10, D-11, D-12, D-13 and D-14). The information withheld by the Defendant resulted in a \$11,727 overissuance of SNAP benefits (Exhibit D-2). In compliance with an order from the Circuit Court of ██████ County, West Virginia (Exhibit D-3), the Defendant has paid restitution in full for this SNAP overissuance.

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 February 2019.

Todd Thornton
State Hearing Officer