



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
4190 Washington Street, West
Charleston, West Virginia 25313
Telephone: (304) 352-0805 Fax: (304) 558-1992

Jeffrey H. Coben, M.D.
Interim Cabinet Secretary

Sheila Lee
Interim Inspector General

June 26, 2023

[REDACTED]

Re: [REDACTED] v. WV DHHR
ACTION NO.: 23-BOR-1587

Dear [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,

Angela D. Signore
State Hearing Officer
Member, State Board of Review

Encl: Recourse to Hearing Decision
Form IG-BR-29
cc: Lisa Snodgrass, Department Representative

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

██████████,

Defendant,

v.

Action Number: 23-BOR-1587

**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 (ADH) for ██████████, requested by the Movant on April 24, 2023. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia (WV) Department of Health and Human Resources' (DHHR) Common Chapters Manual and Federal Regulations at 7 CFR § 273.16. This fair hearing was concerned on May 25, 2023.

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 (IPV) and should therefore be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for twelve (12) months.

At the hearing, the Movant appeared by Lisa Snodgrass, Repayment Investigator, Investigations and Fraud Management (IFM). The Defendant appeared *pro se*. Appearing as a witness for the Defendant was ██████████. All witnesses were sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 WV DHHR Notice of Appointment, dated March 23, 2023; WV DHHR Advance Notice of Administrative Disqualification Hearing Waiver, dated April 06, 2023; Repayment Agreement, unsigned; and Waiver of Administrative Disqualification Hearing, unsigned
- M-2 WV PATH eligibility system printout of Disqualification History, dated April 24, 2023
- M-3 WV PATH SNAP Application, submitted April 20, 2020; WV PATH eligibility system printout of Case Comments, dated April 24, 2020 through May 04, 2020; and WV DHHR Notice of Eligibility, dated April 27, 2020
- M-4 WV DHHR Notice of SNAP Benefit Review, dated August 24, 2020, submitted

September 11, 2020; WV DHHR Notice of Eligibility, dated October 15, 2020; Employment Wage Checks, dated September 5 and September 19, 2020; and [REDACTED] employment verification letter, dated September 29, 2021

M-5 WV DHHR Notice of SNAP Benefit Review, dated February 17, 2021, submitted February 26, 2021; and WV DHHR Notice of Eligibility, dated March 10, 2021;

M-6 WV DHHR Notice of SNAP Benefit Review, dated August 16, 2021, signed September 01, 2021; and WV DHHR Notice of Eligibility, dated September 28, 2021

M-7 WV DHHR Notice of SNAP Benefit Review, dated February 16, 2022, submitted March 10, 2022; Electronic Mail (Email) Correspondence, dated April 04, 2022; and WV DHHR Notice of Eligibility, dated April 11, 2022

M-8 WV DHHR Notice of SNAP Benefit Review, dated August 15, 2022, submitted September 06, 2022; and WV DHHR Notice of Eligibility, dated September 08, 2022

M-9 WV SNAP Income Chart

M-10 Food Stamp Claim Determination, dated April 2020 through January 2023; and Cash Assistance Claim Determinations, dated September 2020, July 2021, and July 2022

M-11 Food Stamp Claim Calculation Sheet, dated April 2020 through January 2023

M-12 Banking Income for [REDACTED], dated March 2020 through January 2023

M-13 Employee Wage Data for [REDACTED], blank

M-14 West Virginia Income Maintenance Manual (WVIMM) §§ 1.2.4 - 1.2.5, 10.4.2.C - 10.4.2.D, 3.1 - 3.2.3, 1.4 - 1.4.12.B, 3.2.1.B.5 - 3.2.1.C, 4.4.3 - 4.4.3.A, 11.2 - 11.2.5, and 11.6 - 11.6.2

M-15 Code of Federal Regulations 7 CFR § 273.16

M-16 [REDACTED] checking deposits/credits and checks/debits statements for account number: [REDACTED] for [REDACTED] dated December 18, 2019 through December 20 2022

M-17 [REDACTED] checking account activity statements for account number: [REDACTED] for [REDACTED], dated November 18, 2020 through December 16, 2022

M-18 City National Bank checking account activity statements for account number: [REDACTED] for [REDACTED], dated December 18, 2020 through December 20, 2021

M-19 [REDACTED] summary of accounts for account number: [REDACTED] for [REDACTED] dated November 18, 2022 through January 10, 2023; and [REDACTED] summary of accounts for account number: [REDACTED] for [REDACTED], dated December 20, 2021 through November 18, 2022

Defendant's Exhibits:

NONE

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 Investigation and Fraud Management (IFM) Unit of West Virginia Department of Health and Human Resources (WVDHHR) alleged an act of Intentional Program Violation

(IPV) by the Defendant for withholding information regarding household income in her Assistance Group (AG) resulting in an over-issuance of SNAP and is requesting that she be disqualified from participation in SNAP for a period of twelve (12) months.

- 2) The Defendant was a recipient of SNAP benefits for a three (3) person AG.
- 3) On April 20, 2020, September 11, 2020, February 26, 2021, September 01, 2021, March 10, 2022 and September 06, 2022, the Defendant completed a SNAP application/review(s) and reported that her household consisted of herself and her two (2) children. (Exhibits M-3 through M-8)
- 4) The Defendant signed rights and responsibilities forms consenting that the information was true and correct to the best of her knowledge on the April 20, 2020, September 11, 2020, February 26, 2021, September 01, 2021, March 10, 2022 and September 06, 2022, application/review(s). (Exhibits M-3 through M-8)
- 5) On an unknown date, the Investigation and Fraud Management Unit received a referral indicating the Defendant was receiving more income than was reported at the time of her SNAP application/review(s).
- 6) On January 10, 2023, the Movant verified through [REDACTED], the Defendant failed to notify the Department of income greater than what was previously disclosed on her SNAP application/review(s). (Exhibit M-9)
- 7) The Defendant has no previous history of Intentional Program Violations (IPVs). (Exhibits M-1, M-14, and M-15)

APPLICABLE POLICY

Code of Federal Regulations (CFR) § 273.16 provides, in part:

An individual making a false or misleading statement, or misrepresenting, concealing, or withholding facts, violating the Food Stamp Program (SNAP), or any State statute for the purpose of acquiring, receiving, possessing, or trafficking of coupons, authorization cards, or reusable documents used as part of an automated benefit delivery system has committed to an Intentional Program Violation (IPV).

Code of Federal Regulations, 7 CFR §273.16(b)(1)(i) provides, in part:

Individuals found to have committed an Intentional Program Violation through an Administrative Disqualification Hearing or by a Federal, State, or local court, or who have signed either a waiver of right to an Administrative Disqualification Hearing or a disqualification consent agreement in cases referred for prosecution show be ineligible to participate in the Supplemental Nutrition Assistance Program for twelve months for the first intentional Program violation.

West Virginia Income Maintenance Manual (WVIMM) § 1.2.4 Client Responsibility provides, in part:

The client's responsibility is to provide complete and accurate information about his circumstances so that the Worker is able to make a correct determination about his eligibility.

WV IMM § 3.2.1.B.5 provides, in part:

Persons who have been found guilty for an IPV are disqualified as follows: First offense, One-year disqualification; Second offense, Two-year disqualification; and Third offense, permanent disqualification.

WVIMM §§ 6.1-6.1.2 Data Exchanges provides, in part:

Federal Data Hub and Income and Eligibility Verification System (IEVS) are electronic sources that perform data matches to verify types of income/assets. Data exchange information available at application and review may be used by the Worker to evaluate discrepancies in the client's statement when it disagrees with Hub data.

Information is provided to the Worker through data exchanges. Information obtained through IEVS is used to verify the eligibility of the AG, to verify proper amount of benefits, and to determine if the AG received benefits to which it was not entitled.

WVIMM §§ 10.4.2-10.4.2.A provides, in part:

All SNAP AGs must report changes related to eligibility and benefit amount at application and redetermination.

WV IMM § 11.2.3.B provides, in part:

IPVs include making false or misleading statements, misrepresenting facts, concealing or withholding information, and committing any act that violates the Food Stamp Act of 1977, SNAP regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of SNAP benefits.

The client(s) who is found to have committed an IPV is ineligible to participate in the program for a specified time, depending on the number of offenses committed.

WV IMM § 11.6.1 provides, in part:

A willfully false statement is one that is deliberately given, with the intent that it be accepted as true, and with the knowledge that it is false.

DISCUSSION

Federal regulations define an Intentional Program Violation (IPV) as making a false statement related to the acquisition of Supplemental Nutrition Assistance Program (SNAP) benefits. The Movant requested the Administrative Disqualification Hearing to determine whether the Defendant committed an IPV and should be disqualified from SNAP benefits for a period of twelve (12) months. The Movant must provide clear and convincing evidence that the Defendant intentionally made false statements, concealed, or withheld facts concerning her SNAP eligibility.

The Defendant completed an application for SNAP benefits on April 20, 2020, and a redetermination of benefits on September 11, 2020, February 26, 2021, September 01, 2021, March 10, 2022 and September 06, 2022. The Defendant signed all rights and responsibilities forms and consented that the information was true and correct to the best of her knowledge. On an unknown date, the Investigation and Fraud Management Unit (IFM) received a referral indicating the Defendant was receiving more income than was reported at the time of her SNAP application/review(s).

The Defendant testified that in March of 2020, due to the Covid-19 Healthcare Crisis, the salon she was employed with was ordered closed by way of Executive Order No. 6-20 by West Virginia Governor Jim Justice. The Defendant further testified that money deposited into her account during “either June or July (of 2020)” was income received from Pandemic Unemployment Assistance (PUA) and “stimulus payments.” She further attested that because she does not “know how this stuff works,” the Defendant visited the DHHR office on multiple occasions in order to have assistance in completing the forms. The Defendant further argued that she did as directed by the Department worker at the time of her SNAP application/review(s).

The Movant argued that the Defendant misrepresented her household circumstances by understating income in order to obtain benefits she was not otherwise entitled to receive. The Movant disputed the Defendant’s testimony and testified that during their meeting, the Defendant alleged she was guided by the Department worker(s) to enter the minimum amount of income necessary in order to meet benefit eligibility requirements. The Movant further testified that throughout the time the Defendant received benefits, she was assigned four (4) different county workers and feels it improbable that all four (4) workers would recommend fraud.

On January 10, 2023, the Movant, through its investigation, verified by [REDACTED] checking and savings account statements, that the Defendant, on multiple occasions, had received income greater than what was disclosed. WVIMM § 1.2.4 Client Responsibility provides, in part, that it is the client's responsibility to provide complete and accurate information about his/her circumstances so that the Worker is able to make a correct determination about his/her eligibility. The Defendant had the responsibility to provide complete and accurate information concerning her household income in order for the Movant to make a correct determination regarding SNAP eligibility.

The Movant established by clear and convincing evidence the Defendant underreported her income at the time of application and review to acquire SNAP benefits she was not entitled to receive, thereby meeting the definition of an IPV. Pursuant to regulations, individuals found to have committed an IPV through an ADH shall be ineligible to participate in SNAP for a specified time, depending on the number of offenses committed. Because the Defendant had no previous history of IPV disqualification penalties, a first-offense twelve (12) month disqualification penalty should be imposed, beginning in accordance with timelines established in federal regulations.

CONCLUSIONS OF LAW

- 1) The Defendant was required by policy to provide complete and accurate information concerning household income in order for the Movant to make a correct determination regarding SNAP eligibility.
- 2) The Movant, verified by [REDACTED] checking and savings account statements, provided evidence that the Defendant underreported her income on multiple occasions to acquire SNAP benefits she was otherwise not entitled to receive.
- 3) The act of making false statements to obtain SNAP benefits constitutes an Intentional Program Violation.
- 4) The penalty for a first offense Intentional Program Violation is exclusion from participation in SNAP for a 12-month period.

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 twelve (12) months, beginning August 01, 2023.

ENTERED this ____ day of June 2023.

Angela D. Signore
State Hearing Officer