



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

Earl Ray Tomblin
Governor

BOARD OF REVIEW
203 East Third Avenue
Williamson, WV 25661

Karen L. Bowling
Cabinet Secretary

November 23, 2015



RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-3194

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,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

Encl: Claimant's Recourse to Hearing Decision
Form IG-BR-29

cc: Brian Shreve, Repayment Investigator

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

██████████,

Defendant,

v.

Action Number: 15-BOR-3194

**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 5, 2015. 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 Section 273.16. The hearing was convened on November 17, 2015.

The matter before the Hearing Officer arises from a request by the Department 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 twelve months.

At the hearing, the Department appeared by Brian Shreve, Repayment Investigator. The Defendant appeared *pro se*. The participants were sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 Code of Federal Regulations §273.16
- M-2 Benefit Recovery Referral, dated July 31, 2015
- M-3 Form ES-FS-5, Food Stamp (SNAP) Claim Determination
- M-4 Case recordings from Defendant's SNAP record, from July 27 through September 15, 2015
- M-5 Form IFM-5b, Employment Data from Defendant's employer, dated September 1, 2015
- M-6 SNAP Mail-in Review Form, signed by Defendant on August 19, 2013
- M-7 Case recordings from Defendant's SNAP record, from August 8 through December 18, 2015

- M-8 PRC-2, SNAP Periodic Reporting form, signed and dated by Defendant on February 2, 2015
- M-9 Case recordings from Defendant's SNAP record, from March 17 through July 24, 2015
- M-10 West Virginia Income Maintenance Manual (WV IMM) Chapter 1, §1.2.E
- M-11 WV IMM Chapter 20, §20.2
- M-12 Copy of IG-IFM-ADH-waiver, Waiver of Administrative Disqualification Hearing form, and IG-IFM-ADH-Ltr, Notice of Intent to Disqualify form, sent to Defendant on September 21, 2015

Defendant's Exhibits

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence, 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 Department's representative contended the Defendant committed an Intentional Program Violation and should be disqualified from SNAP for one year because she intentionally withheld the fact that she was working and receiving earned income, from March 2013 through August 2015. The Department's representative argued that because the Defendant did not report her employment information, her SNAP Assistance Group (AG) received \$7494 in benefits to which it was not entitled.
- 2) On July 27, 2015, the Defendant completed a SNAP telephone review, wherein she reported she was working and receiving earned income. A worker completed case recordings in the Defendant's SNAP case record (Exhibit M-4) to the effect that she was working for 30 hours per week at a pay rate of \$8 per hour. The worker sent a Benefit Recovery Referral (Exhibit M-2) to the Investigations and Fraud Management office of the WV DHHR because the Defendant previously had not reported this employment.
- 3) The Department's representative sent to the Defendant's employer, [REDACTED], an employment data form (Exhibit M-5), asking the employer to provide certain information such as hire date and rate of pay. The employer returned the form on September 1, 2015, confirming that the Defendant had been hired on June 7, 2013, and worked approximately 25 hours per week. The employer included a list of paycheck dates and amounts, and confirmed that from August 15 through November 7, 2014, the Appellant received no pay.
- 4) On July 22, 2013, the Department sent the Defendant a SNAP telephone review form (Exhibit M-6), which she completed and returned on August 19, 2013. On this review form, the only income she reported was child support. The worker who processed the form called the Defendant to complete the review. She wrote in the Defendant's case SNAP recordings (Exhibit M-7) that the Defendant confirmed the only income she received was child support.

- 5) On March 12, 2015, the Defendant submitted to the Department a mail-in periodic reporting form (Exhibit M-8), required midway through a recipient's SNAP certification period. She reported on this form that her monthly income consisted of child support and money her mother paid her for house-cleaning services.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WV IMM) Chapter 1.2.E states that it is the client's responsibility to provide information about his/her circumstances so the worker is able to make a correct decision about his/her eligibility.

WV IMM Chapter 2.2.B reads, "All SNAP AGs must report changes related to eligibility and benefit amount at application and redetermination. SNAP AGs are subject to Limited Reporting requirements and the reporting requirements in this Section apply to recipient AGs only."

WV IMM Chapter 2.2.B.1 reads, "Once approved, all AGs must report when the total gross earned and unearned income of the AG and all other individuals who reside with the AG exceeds the AG's gross income limit. This must be reported no later than the 10th calendar day of the month following the month in which the change occurs.

WV IMM Chapter 20.2 states that when an AG has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation or Intentional Program Violation claim. The claim is the difference between the allotment the client received and the allotment he should have received.

WV IMM Chapter 20.2.C.2 provides that once an IPV (Intentional Program Violation) is established, a disqualification penalty is imposed on the AG members who committed the IPV. The penalties are as follows: First Offense – one year disqualification; Second Offense – two years disqualification; Third Offense – permanent disqualification.

Pursuant to the Code of Federal Regulations 7 CFR Section 273.16, an Intentional Program Violation shall consist of a SNAP recipient having intentionally: 1. Made a false or misleading statement, or misrepresented, concealed or withheld facts; or 2. Committed any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system access device.

DISCUSSION

On SNAP reviews from 2013 through 2015, the Defendant did not report that she was working and receiving earned income. The Defendant testified that according to the information she read at her benefit reviews and applications, she did not have to report her income unless it reached

133% of the Federal Poverty Level (FPL), so she did not think she was required to report her income from [REDACTED].

The Defendant was not correct in stating that she did not have to report her income unless it reached 133% of the FPL. SNAP recipients are obligated to report if their income exceeds the gross income level for their household at any time during the certification period for their receipt of SNAP benefits. However, during reviews and/or redeterminations, recipients are required to report “changes related to eligibility and benefit amount,” including employment information.

The Department provided clear and convincing evidence that the Defendant was working and receiving earned income as early as June 2013, and did not report this income to the Department on SNAP benefit reviews and/or redeterminations.

CONCLUSIONS OF LAW

- 1) Pursuant to the Code of Federal Regulations and the Common Chapters Manual, the Defendant made a false or misleading statement, or misrepresented, concealed or withheld facts, in order to receive SNAP benefits to which she was not legally entitled.
- 2) The Department presented clear and convincing evidence that Defendant committed an Intentional Program Violation by not reporting that she was working and receiving earned income during the period of September 2013 through August 2015, in violation of WV IMM §1.2.E. The Department must impose a disqualification penalty.
- 3) The disqualification for a first offense IPV is one year.

DECISION

It is the ruling of the Hearing Officer that the Defendant committed an Intentional Program Violation. She will be disqualified from participating in SNAP for one year, beginning January 1, 2016.

ENTERED this 24th Day of November 2015.

**Stephen M. Baisden
State Hearing Officer**