



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
203 East Third Avenue
Williamson, WV 25661

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

May 23, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-1448

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: Juna Woodall, Repayment Investigator

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

██████████,

Defendant,

v.

Action Number: 17-BOR-1448

**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 March 10, 2017. 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 May 2, 2017.

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 Juna Woodall, Repayment Investigator. The Defendant did not appear. The participant was sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 Code of Federal Regulations §273.16
- M-2 Form ES-FS-5, Food Stamp (SNAP) Claim Determination
- M-3 Combined Application Form (CAF) and Rights and Responsibilities form, signed by Defendant on October 3, 2014
- M-4 Form IG-IFM-WAGE-VERIFICATION, Wage verification form sent to ██████████, ██████████ WV, on February 15, 2017, completed by payroll administrator and returned on February 23, 2017
- M-5 Case recordings from Defendant's SNAP case record, from July 16 through October 8, 2014
- M-6 West Virginia Income Maintenance Manual (WV IMM) Chapter 1, §1.2.E

- M-7 WV IMM Chapter 20, §20.2
- M-8 WV IMM Chapter 20, §20.6
- M-9 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 July 20, 2016

Defendant's Exhibits

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence during 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 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, during SNAP reviews and/or applications from October 3, 2014 through March 31, 2015.
- 2) The Defendant had worked at a pizza restaurant, [REDACTED] over several different periods beginning in 2001. The employer provided employment verification indicating that one such period was from October 1, 2014, through March 31, 2015 (Exhibit M-4).
- 3) On October 3, 2014, the Defendant completed and submitted a SNAP benefit review form to the WV DHHR, [REDACTED] County office (Exhibit M-3). On it, she reported no earned or unearned income in her household.
- 4) The Department's representative asserted that because the Defendant did not report her earned income, her SNAP assistance group (AG) received \$1417 in benefits to which it was not entitled.

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 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.

WV IMM Chapter 20, §20.6.A reads as follows: “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 . . . [however] it is not essential that an affirmative representation be made. Misrepresentation may . . . be the suppression of what is true, as well as the representation of what is false.

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

During a SNAP reviews from October 2014 (Exhibit M-3), the Defendant reported that there was no earned or unearned income received in her household. She obtained SNAP benefits based on this information.

The Department obtained information from [REDACTED], [REDACTED] WV, indicating the Defendant worked at a [REDACTED] restaurant from October 1, 2014, to March 25, 2015. She did not report this information on her SNAP review, even though she had started work only two days earlier.

The Department provided clear and convincing evidence that the Defendant intentionally withheld information regarding her earned income from October 2014 through March 2015, in order to obtain more SNAP benefits than her assistance group was entitled to receive.

CONCLUSIONS OF LAW

- 1) Pursuant to the Code of Federal Regulations and the Common Chapters Manual, the Defendant made false or misleading statements, or misrepresented, concealed or withheld facts, in order to receive SNAP benefits to which her assistance group was not entitled.
- 2) The Department presented clear and convincing evidence that the Defendant committed an Intentional Program Violation by not reporting that she received earned income during the period of October 2014 through March 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 July 1, 2017.

ENTERED this 23rd Day of May 2017.

**Stephen M. Baisden
State Hearing Officer**