



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

June 13, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-1474

Dear Mr. [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: Defendant'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-1474

**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 17, 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 Employment Data form sent to ██████████, ██████████, WV, on January 24, 2017, completed by office manager and returned on February 7, 2017
- M-4 Case recordings from Defendant's SNAP case record, from January 7, 2013, through July 13, 2016
- M-5 Mail-in benefits review form, signed by Defendant on September 10, 2015
- M-6 Medicaid benefit review form, signed by Defendant on June 27, 2016
- M-7 West Virginia Income Maintenance Manual (WV IMM) Chapter 1, §1.2.E
- M-8 WV IMM Chapter 20, §20.2

M-9 WV IMM Chapter 20, §20.6

M-10 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 March 9, 2017

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 he intentionally withheld the fact that he was working and receiving earned income, during SNAP reviews and/or applications from July 1, 2014, through July 31, 2016.
- 2) The Defendant was a recipient of SNAP benefits in 2014. He performed a SNAP benefits review on June 5, 2014, reporting no earned income and \$737 per month unearned income (Exhibit M-4).
- 3) On September 10, 2015, the Defendant completed and submitted a SNAP benefit review form to the WV DHHR, ██████████ County office (Exhibit M-5). On it, he reported no earned income and \$749 per month in earned income.
- 4) On June 27, 2016, the Defendant completed and submitted a Medicaid benefit review form to the WV DHHR, ██████████ County office (Exhibit M-6). On it, he reported no earned income and \$749 per month in earned income.
- 5) On February 7, 2017, the Department received verification from ██████████ ██████████ of ██████████, WV, indicating the Defendant had been hired in 2014, and was still working as of that date (Exhibit M-3).
- 6) The Department provided a print-out from a data exchange between the WV DHHR and the WV Bureau of Employment programs (Exhibit M-3, last page) indicating the Defendant was paid \$2619 in gross wages in the second quarter of 2014.
- 7) The Department's representative asserted that because the Defendant did not report his earned income, his SNAP assistance group (AG) received \$3765 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 SNAP and Medicaid reviews from June 2014 (Exhibit M-4) through June 2016 (Exhibit M-6), the Defendant reported that there was no earned income received in his household. He obtained SNAP benefits based on this information.

The Department obtained information from [REDACTED] of [REDACTED], WV, indicating the Defendant worked there beginning in 2014 (Exhibit D-3). Although the employer did not provide an exact start date, a data exchange match from the WV Bureau of Employment Programs indicates he was paid \$2619 in gross wages in the second quarter of 2014 (Exhibit D-3, last page). He did not report this information on SNAP and Medicaid reviews throughout the repayment period of July 1, 2014, through July 31, 2016.

The Department provided clear and convincing evidence that the Defendant intentionally withheld information regarding his earned income from July 1, 2014, through July 31, 2016, in order to obtain more SNAP benefits than his 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 his 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 he received earned income during the period of July 1, 2014, through July 31, 2016, 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. He will be disqualified from participating in SNAP for one year, beginning July 1, 2017.

ENTERED this 13th Day of June 2017.

**Stephen M. Baisden
State Hearing Officer**