



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

Jim Justice
Governor

BOARD OF REVIEW
Raleigh District DHHR
407 Neville Street
Beckley, WV 25801

Bill J. Crouch
Cabinet Secretary

November 28, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-2706

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,

Kristi Logan
State Hearing Officer
Member, State Board of Review

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

cc: Christine Allen, [REDACTED] County DHHR

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

██████████,

Defendant,

v.

Action Number: 17-BOR-2706

**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 24, 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 §273.16. The hearing was convened on November 28, 2017.

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

At the hearing, the Movant appeared by Christine Allen, Repayment Investigator. The Defendant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 Hearing Summary
- M-2 SNAP Claim Determination Form
- M-3 SNAP Issuance History-Disbursement Screen Print
- M-4 SNAP Allotment Determination Screen Prints
- M-5 SNAP Claim Calculation Sheets
- M-6 Case Members History Screen Print
- M-7 Case Comments from December 2016 - September 2017
- M-8 inROADS Apply for Benefits Form submitted December 28, 2016
- M-9 SNAP 6 or 12 Month Contact Form received July 12, 2017
- M-10 Notices of Decision dated January 4, 2017, and July 18, 2017
- M-11 Bureau of Employment Programs (BEP) Wage Details Screen Prints

- M-12 New Hire Details Screen Print
- M-13 Employment Statement from [REDACTED] received August 4, 2017
- M-14 Front-End Fraud Unit Investigative Findings dated August 15, 2017
- M-15 Correspondence from [REDACTED] dated August 11, 2017, and Payment Detail Listing
- M-16 Benefit Recovery Referral Screen Print
- M-17 Suspect Interview Letter dated September 29, 2017
- M-18 Advance Notice of Administrative Disqualification Hearing Waiver dated October 13, 2017
- M-19 West Virginia Income Maintenance Manual §1.2(E)
- M-20 West Virginia Income Maintenance Manual §10.3(DD)
- M-21 West Virginia Income Maintenance Manual §§20.1 and 20.2
- M-22 Code of Federal Regulations – 7 CFR §273.16

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 Movant alleged that the Defendant committed an Intentional Program Violation by falsely reporting her income and requested that a twelve (12) month penalty be imposed against her.
- 2) The Defendant submitted a SNAP review form to the Respondent on December 28, 2016. She reported no income for her household (Exhibit M-8).
- 3) A telephone interview was conducted with the Defendant on January 3, 2017. When questioned by her caseworker about a New Hire data exchange alert, the Defendant denied that she was working (Exhibit M-7).
- 4) SNAP benefits were recertified based on the information provided by the Defendant.
- 5) The Defendant submitted a 6-Month Contact Form to the Respondent on July 12, 2017. The Defendant reported no income for her household (M-9).
- 6) SNAP benefits were continued based on the information provided.
- 7) The Defendant applied for School Clothing Allowance benefits on July 27, 2017. The Defendant denied current or past employment with [REDACTED] during the application interview (M-7).
- 8) The Respondent received verification that the Defendant was hired by [REDACTED] on August 4, 2016, and received regular income from this employment until her termination on July 17, 2017 (M-15).

APPLICABLE POLICY

Code of Federal Regulations, 7 CFR §273.16, establishes that 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 an Intentional Program Violation (IPV).

West Virginia Income Maintenance Manual §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. Failure to fulfill this obligation may result in one or more of the following actions: denial of the application, closure of the active AG, removal of the individual from the AG, repayment of benefits, and/or a reduction in benefits.

West Virginia Income Maintenance Manual §20(C)(2) defines an IPV and establishes that IPV's include: making false or misleading statements, misrepresentations, 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. Once an IPV has been established, a disqualification period must be imposed on the Assistance Group (AG) member who committed the violation.

West Virginia Income Maintenance Manual §9.1(A)(2) sets forth the penalties for individuals found guilty of an IPV as follows: First Offense, twelve (12) month disqualification; Second Offense, twenty-four (24) month disqualification; Third Offense, permanent disqualification.

West Virginia Income Maintenance Manual §10.3(DD) states earnings from employment are used in determining SNAP eligibility.

DISCUSSION

Federal regulations define an Intentional Program Violation as making a false statement related to the acquisition of SNAP benefits.

The Defendant denied having income from employment during her December 2016 and July 2017 SNAP reviews. The Respondent provided verification that the Defendant had been employed at [REDACTED] since August 4, 2016. The Defendant made a false statement at her December 2016 and July 2017 SNAP reviews regarding her household income, which meets the definition of an Intentional Program Violation.

The Defendant testified that she made a stupid mistake by falsely reporting that she did not have income to the Respondent during her SNAP reviews, and accepted the disqualification from participation in SNAP.

CONCLUSIONS OF LAW

- 1) The Defendant made false statements at her December 2016 and July 2017 SNAP reviews by reporting that she was not employed.
- 2) The Movant provided irrefutable evidence that the Defendant had been working and receiving regular earnings since August 2016.
- 3) The act of making a false statement 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 twelve (12) months.

DECISION

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation. As this is the Defendant's first offense, she will be excluded from participation in the program for twelve (12) months, effective January 2018.

ENTERED this 28th day of November 2017

**Kristi Logan
State Hearing Officer**