



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
1400 Virginia Street
Oak Hill, WV 25901

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

March 21, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-3242

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: Rusty Udy, [REDACTED] County DHHR

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

██████████,

Defendant,

v.

Action Number: 16-BOR-3242

**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 December 29, 2016. 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 March 9, 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 should thus be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for twelve (12) months.

At the hearing, the Movant appeared by Rusty Udy, Repayment Investigator. The Defendant failed to appear. The Movant's representative was 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 Claim Calculation Sheets
- M-4 SNAP Issuance History-Disbursement Screen Print
- M-5 SNAP Allotment Determination Screen Prints
- M-6 Non-Financial Eligibility Determination Screen Prints
- M-7 Case members History Screen Print

- M-8 Case Comments from August 2015-October 2016
- M-9 Employee Wage Data Screen Print and Check History Report from [REDACTED]
- M-10 Application for Benefits and Rights and Responsibilities Form dated June 30, 2015, SNAP 6 or 12 Month Contact Form dated November 4, 2015 and SNAP/Medicaid Review Form dated June 1, 2016
- M-11 Advance Notice of Administrative Disqualification Hearing Waiver dated December 9, 2016
- M-12 West Virginia Income Maintenance Manual §1.2(E) and Chapter 20
- M-13 Code of Federal Regulations – 7CFR §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 was notified of the hearing by scheduling order sent by certified mail on February 8, 2017. The scheduling order was accepted and signed for on February 13, 2017, yet the Defendant failed to appear for the hearing or provide good cause for her failure to do so. In accordance to 7CFR §273.16(e)(4)) and West Virginia Department of Health and Human Resources' Common Chapters Manual, §740.20, the hearing was held without the Defendant in attendance.
- 3) The Defendant was a recipient of SNAP benefits.
- 4) The Defendant reported a loss of employment with [REDACTED] during her June 2015 SNAP review. (Exhibit M-10)
- 5) The Defendant completed a 6-Month Contact Form on November 4, 2015, and reported no earned income for her household. (Exhibit M-10)
- 6) The Defendant completed a SNAP review on June 1, 2016. She reported no earnings for anyone in her household. (Exhibit M-10)
- 7) The Movant verified that the Defendant resumed working for [REDACTED] and received regular income from this employment from June 22, 2015, through November 2, 2016. (Exhibit M-9)

APPLICABLE POLICY

Code of Federal Regulations, 7CFR §273.16, establishes that an individual making a false or misleading statement, or misrepresenting, concealing or withholding facts, violating the Food Stamp Program, 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 reported that she was not employed at her June 2016 SNAP review.

The Movant provided verification that the Defendant had been working since July 2015, prior to her SNAP redetermination. The Defendant made a false statement at her June 2016 SNAP review regarding her household income, which meets the definition of an Intentional Program Violation.

CONCLUSIONS OF LAW

- 1) The Defendant made a false statement at her June 2016 SNAP redetermination by reporting that she was not employed.

- 2) The Movant provided irrefutable evidence that the Defendant had been working and receiving regular earnings since July 2015.
- 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 May 2017.

ENTERED this 21st day of March 2017

**Kristi Logan
State Hearing Officer**

