



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

January 16, 2018

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-2874

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-2874

**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 November 28, 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 January 3, 2018.

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 twenty-four (24) months.

At the hearing, the Movant appeared by Christine Allen, 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 Department's Summary
- M-2 SNAP Claim Determination Form
- M-3 SNAP Issuance-Disbursement Screen Print
- M-4 SNAP Allotment Determination Screen Prints
- M-5 SNAP Claim Calculations Sheets
- M-6 Case Members History Screen Print
- M-7 Case Comments from January 2017 through August 2017
- M-8 Application for Benefits dated December 30, 2016
- M-9 SNAP 6 or 12-Month Contact From dated May 20, 2017
- M-10 Application for Emergency Assistance dated January 13, 2017

- M-11 Notices of Decision dated January 17, 2017 and June 1, 2017
- M-12 Medicaid Application dated August 21, 2017
- M-13 Benefit Recovery Referral Screen Print
- M-14 Employee Wage Data Screen Print
- M-15 Wage History from [REDACTED]
- M-16 Electronic Disqualified Recipients System Screen Print and Waiver of Administrative Disqualification Hearing signed March 30, 2004
- M-17 Suspect Interview Appointment Letter dated November 1, 2017
- M-18 Advance Notice of Waiver of Disqualification Hearing dated November 1, 2017
- M-19 West Virginia Income Maintenance Manual §1.2.E (effective October 2013) and §1.2.4 (effective October 2017)
- M-20 West Virginia Income Maintenance Manual §10.3.DD (effective October 2013) and §4.3.1.29.j (effective October 2017)
- M-21 West Virginia Income Maintenance Manual §20 (effective October 2013) and §11 (effective October 2017)
- 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 (IPV) by falsely reporting her income and requested that a twenty-four (24) month penalty be imposed against her.
- 2) The Defendant was notified of the hearing by scheduling order mailed on November 29, 2017. The Defendant failed to appear for the hearing or provide good cause for her failure to do so. In accordance to 7 CFR §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 submitted an application for SNAP benefits to the Movant on December 30, 2016, reporting no income for her household (Exhibit M-8).
- 4) SNAP benefits were approved based on the information provided.
- 5) The Defendant submitted a 6-Month Contact Form to the Movant on May 20, 2017, again reporting no income for her household ((Exhibit M-9).
- 6) SNAP benefits were continued based on the information provided.

- 7) The Movant discovered that the Defendant was hired with [REDACTED] on December 16, 2016, and received her first paycheck on December 23, 2016 (Exhibits M-14 and M-15).
- 8) The Defendant remained employed and receiving regular paychecks from this employment throughout her receipt of SNAP benefits.
- 9) The Defendant has one previous IPV offense.

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 §1.2.4 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

West Virginia Income Maintenance Manual §11.2.3.B states that IPV's include making false or misleading statements, misrepresenting facts, 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. The client(s) who is found to have committed an IPV is ineligible to participate in the program for a specified time, depending on the number of offenses committed.

West Virginia Income Maintenance Manual §3.2.1.B.5 states that persons who have been found guilty of an IPV are disqualified as follows: First offense, One year disqualification; Second offense, Two year disqualification; and Third offense, Permanent disqualification.

West Virginia Income Maintenance Manual §4.3.1.29.j states that employment counts as earned income for SNAP benefits.

DISCUSSION

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

The Defendant made false statements on her December 2016 SNAP application and May 2017 SNAP Contact Form by reporting no income for her household. The Movant verified that the Defendant was hired at [REDACTED] prior to the date of her SNAP application, and received regular income while receiving SNAP benefits.

The Defendant's actions meet the definition of an Intentional Program Violation.

CONCLUSIONS OF LAW

- 1) The Defendant made false statements at her December 2016 SNAP application and May 2017 SNAP Contact Form by reporting that she was not employed.
- 2) The Movant provided irrefutable evidence that the Defendant was hired and receiving income prior to the initial SNAP application.
- 3) The act of making a false statement to obtain SNAP benefits constitutes an Intentional Program Violation.
- 4) The penalty for a second offense Intentional Program Violation is exclusion from participation in SNAP is twenty-four (24) 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 second offense, she will be excluded from participation in the program for 24 months, effective February 2018.

ENTERED this 16th day of January 2018

**Kristi Logan
State Hearing Officer**