



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

Bill J. Crouch
Cabinet Secretary

Board of Review
416 Adams Street Suite 307
Fairmont, WV 26554
304-368-4420 ext. 30018
Tara.B.Thompson@wv.gov

Jolynn Marra
Interim Inspector General

October 30, 2020



RE: [REDACTED] v. WV DHHR
ACTION NO.: 20-BOR-2164

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,

Tara B. Thompson, MLS
State Hearing Officer
Member, State Board of Review

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

cc: Debra Carey, Investigations and Fraud Management

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

████████████████████,

Defendant,

v.

Action Number: 20-BOR-2164

**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 (ADH) for ██████████ requested by the Movant on September 16, 2020. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' (DHHR) Common Chapters Manual and Federal Regulations at 7 CFR § 273.16. The hearing was convened on October 14, 2020.

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

At the hearing, the Department appeared by Debra Carey (Ms. Carey), Investigations and Fraud Management. The Defendant did not appear at the hearing. Ms. Carey was sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 ADH Hearing Summary
- M-2 Benefit Recovery Referral BVRF, dated April 17, 2020
- M-3 DHHR SNAP 6 or 12 Month Contact Form, submitted August 2, 2018
- M-4 DHHR inROADS SNAP Renewal Application, dated January 16, 2019
- M-5 eRAPIDS Case Member History, printed August 19, 2020
- M-6 eRAPIDS Case Comments, dated January 3, 2018 through August 7, 2020
- M-7 eRAPIDS SNAP Issuance History-Disbursement, printed September 16, 2020
- M-8 Employee Wage Data, printed August 19, 2020
- M-9 Employee Wage Data, printed August 19, 2020
- M-10 Food Stamp Claim Determination Forms, Food Stamp Allotment Determination Forms, Food Stamp Claim Calculation Sheets

- M-11 Benefit Recovery Referral, dated August 11, 2020, Food Stamp Claim Calculation Sheets, Food Stamp Allotment Determination Forms
- M-12 Advanced Notice of ADH Waiver, dated August 26, 2020
- M-13 Waiver of ADH, unsigned
- M-14 West Virginia Income Maintenance Manual (WVIMM) § 1.2.4
- M-15 WVIMM § 10.4.2
- M-16 WVIMM § 11.2
- M-17 Code of Federal Regulations § 273.16

Defendant’s Exhibits:

None

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 Defendant is a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits for a three-person Assistance Group (AG) —which includes the Appellant, her husband, [REDACTED] (Mr. [REDACTED]), and their minor son, [REDACTED] (Exhibits M-3 through M-5).
- 2) The Movant requested an Administrative Disqualification Hearing (ADH) to establish that the Defendant committed an Intentional Program Violation (IPV) by making false or misleading statements, misrepresenting, concealing, or withholding facts about the household’s income for the purpose of receiving SNAP benefits from August 2018 through January 2020 (Exhibit M-1).
- 3) On August 2, 2018, the Defendant affixed a handwritten signature to a SNAP 6 or 12 Month Contact Form (Interim Contact Form) certifying that the information contained within the form was correct (Exhibit M-3).
- 4) On the August 2, 2018 Interim Contact Form, the Defendant indicated that her gross earned income from [REDACTED] had changed and that she was no longer employed at [REDACTED], effective June 19, 2018 (Exhibit M-3).
- 5) The Appellant received earned income from [REDACTED] from the second quarter of 2018 through the first quarter of 2019 (Exhibit M-9).
- 6) The Defendant did not report income from [REDACTED] at the time of her August 2, 2019 SNAP Interim Contact Form and eligibility interview (Exhibits M-3 and M-6).

- 7) On January 16, 2019, the Defendant applied an electronic signature to a SNAP renewal application certifying that the information within the form was correct and that she agreed to notify the DHHR within 10 days if there were changes in the household's amount or source of earned or unearned income (Exhibit M-4).
- 8) On the January 16, 2019 renewal application, the Appellant indicated that she had begun employment at [REDACTED] on December 24, 2018 (Exhibit M-4).
- 9) The Appellant did not report any earned or unearned income for Mr. [REDACTED] on the August 2, 2018 Interim Contact Form, the January 16, 2019 SNAP renewal application, or during SNAP eligibility interviews on August 2, 2018 or January 22, 2019 (Exhibits M-3, M-4, and M-6).
- 10) The Appellant had multiple contacts with the Movant and did not report any income for Mr. [REDACTED] during application and eligibility reviews for Low Income Energy Assistance Program (LIEAP) and Medicaid on January 8, February 19, June 21, December 8, and December 27, 2019 (Exhibit M-6).
- 11) Mr. [REDACTED] received earned income from [REDACTED] from the second quarter of 2018 through the fourth quarter of 2019 (Exhibits M-5 and M-8).
- 12) Mr. [REDACTED] was receiving earned income from [REDACTED] at the time the Defendant completed the August 2, 2018 Interim Contact Form and the January 16, 2019 SNAP renewal application (Exhibits M-3 through M-5, and M-8).
- 13) The Defendant has no previous history of IPV determination.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) § 1.2.4 Client Responsibility provides in part:

The client's responsibility is to provide complete and accurate information about his circumstances so that the Worker is able to make a correct determination about his eligibility.

WVIMM §§ 6.1-6.1.2 Data Exchanges provides in part:

Federal Data Hub and Income and Eligibility Verification System (IEVS) are electronic sources that perform data matches to verify types of income/assets. Data exchange information available at application and review may be used by the Worker to evaluate discrepancies in the client's statement when it disagrees with Hub data.

Information is provided to the Worker through data exchanges. Information obtained through IEVS is used to verify the eligibility of the AG, to verify proper amount of benefits, and to determine if the AG received benefits to which it was not entitled.

WVIMM §§ 10.4.2-10.4.2.A Client Reporting Requirements provides in part:

All SNAP AGs must report changes related to eligibility and benefit amount at application and redetermination.

Code of Federal Regulations 7 CFR § 273.16(a)(1) provides in part:

Administrative disqualification procedures or referral for prosecution action should be initiated by the State agency in cases in which the State agency has sufficient documentary evidence to substantiate that an individual has intentionally made one or more acts of intentional Program violation as defined in paragraph (c) of this section.

Code of Federal Regulations 7 CFR § 273.16(b)(1)(i) provides in part:

Individuals found to have committed an intentional Program violation through an administrative disqualification hearing ... shall be ineligible to participate in the Supplemental Nutrition Assistance Program for a period of twelve months for the first intentional Program violation.

Code of Federal Regulations 7 CFR § 273.16(b)(13) provides in part:

The disqualification period shall begin no later than the second month which follows the date the individual receives written notice of the disqualification. The disqualification period must continue uninterrupted until completed regardless of the eligibility of the disqualified individual's household.

Code of Federal Regulations 7 CFR § 243.16(c)(1) provides in part:

An intentional program violation is defined as an individual having intentionally made a false or misleading statement, or misrepresented, concealed, or withheld facts.

DISCUSSION

The Movant petitioned the Board of Review for an ADH, requested that an IPV be established, and that a 12-month SNAP disqualification penalty period be applied. The Defendant was notified of the ADH scheduling and failed to appear at the hearing to contest the Movant's evidence. Pursuant to federal regulations, the hearing was held in the Defendant's absence.

The Movant had to prove by clear and convincing evidence that the Defendant misrepresented or intentionally withheld information regarding her household's income for the purpose of obtaining SNAP benefits from August 2018 through January 2020.

The evidence verified that Mr. [REDACTED] was employed and receiving wages at the time the Defendant completed her August 2, 2018 Interim Contact Form and January 16, 2019 SNAP renewal application. Pursuant to policy, the Defendant had a responsibility to report accurate information about the household's income so that the worker could make a correct decision regarding the Defendant's SNAP eligibility. Pursuant to the evidence, the Defendant signed her acknowledgement that the information provided to the Movant was true and correct; however, the evidence established that the Defendant failed to report Mr. [REDACTED] earned income from [REDACTED] from the second quarter of 2018 through the fourth quarter of 2019. Further, the Movant's evidence verified that the Defendant failed to report her wages from [REDACTED] from the second quarter of 2018 through the first quarter of 2019.

CONCLUSIONS OF LAW

- 1) The Defendant was required to report all household income during SNAP application and eligibility reviews.
- 2) Clear and convincing evidence proved that the Defendant intentionally made false statements and withheld facts regarding the household's earned income for the purpose of receiving SNAP benefits.
- 3) Because the Defendant had no previous history of IPV disqualification penalty, a first-offense 12-month disqualification penalty must be imposed.

DECISION

It is the finding of this State Hearing Officer that the Defendant committed an Intentional Program Violation and a first-offense 12-month disqualification penalty period must be imposed, effective December 1, 2020.

ENTERED this 30th day of October 2020.

**Tara B. Thompson, MLS
State Hearing Officer**