



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
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Bill J. Crouch
Cabinet Secretary

Jolynn Marra
Interim Inspector General

January 30, 2020

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 19-BOR-2684

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,

Angela D. Signore
State Hearing Officer
Member, State Board of Review

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

cc: Brian Shreve, Department Representative

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

██████████,

Defendant,

v.

Action Number: 19-BOR-2684

**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 05, 2019. 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. This hearing was convened on November 26, 2019.

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

At the hearing, the Movant appeared by Brian Shreve, Repayment Investigator, Investigations and Fraud Management (IFM). The Defendant failed to appear. The Department witness was sworn and the following documents were admitted into evidence.

EXHIBITS

Movant's Exhibits:

- M-1 Code of Federal Regulations 7 CFR § 273.16
- M-2 Benefits Recovery Referral, dated September 03, 2019, and E-mail correspondence between ██████████ and Brian Shreve

- M-3 Food Stamp Claim Determination, Food Stamp Claim Calculation Sheet, dated July 2019, Benefits Recovery Referral, dated September 03, 2019 with handwritten income information, Benefits Recovery Referral, dated October 17, 2019 with handwritten income information, Food Stamp Claim Calculation Sheet, dated March 2018 – May 2018, Case Household Information, dated October 04, 2019, Case Members History, dated October 04, 2019, Supplemental Nutrition Assistance Program (SNAP) Issuance History – Disbursement History, Food Stamp Allotment Determination, and Employee Wage Data for [REDACTED]
- M-4 eRAPIDS computer system screenshot printout of Case Comments, dated August 29, 2019 through October 17, 2019
- M-5 Employment Data and Wage History for [REDACTED], [REDACTED] County Schools, dated March 7, 2019, and Letter Requesting Wage History to [REDACTED] County Board of Education from Brian Shreve
- M-6 WV IMM Chapter 10, Appendix A – Income Limits
- M-7 SNAP Application, dated August 23, 2018
- M-8 eRAPIDS computer system screenshot printout of Case Comments, dated August 09, 2018 through August 28, 2018
- M-9 SNAP Review Form (PRC2), dated January 30, 2019
- M-10 WV IMM §§ 1.2.4 and 1.2.5
- M-11 WV IMM §§ 11.2 through 11.2.8.H
- M-12 Advance Notice of Administrative Disqualification Hearing Waiver, dated October 18, 2019; and Waiver of Administrative Disqualification Hearing, unsigned

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 Investigation and Fraud Management (IFM) Unit of West Virginia Department of Health and Human Resources (WVDHHR) alleged an act of Intentional Program Violation (IPV) by the Defendant for withholding information regarding household income in her Assistance Group (AG) resulting in an over-issuance of SNAP benefits from August 2018 through July 2019, and is requesting that she be disqualified from participation in SNAP, for a period of twelve (12) months.
- 2) The Defendant was a recipient of SNAP benefits for a five (5) person AG.
- 3) On August 23, 2018, the Defendant completed a SNAP application and reported the only source of income in her AG was earned income received by [REDACTED] in the amount of \$1600.00 per month. (Exhibit M-7)

- 4) On January 30, 2019, the Defendant completed a SNAP redetermination and reported the only source of income in her AG was earned income received by [REDACTED] in the amount of \$1888.98 per month. (Exhibit M-9)
- 5) On each SNAP Application and Review form, the Defendant signed that the information contained was true and correct to the best of her knowledge. (Exhibits M-7 and M-9)
- 6) The Defendant was employed full-time by and received earned income from the [REDACTED] County Board of Education from June 01, 2016 to September 16, 2019. (Exhibits M-3 and M-5)
- 7) The Defendant has no previous history of Intentional Program Violations (IPVs). (Exhibit M-12)

APPLICABLE POLICY

Code of Federal Regulations (CFR) §273.16 provides:

An individual making 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 to an Intentional Program Violation (IPV).

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.

WV IMM § 3.2.1.B.5 provides, in part:

Persons who have been found guilty for an IPV are disqualified as follows: First offense, One-year disqualification; Second offense, Two-year disqualification; and Third offense, permanent disqualification.

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.

WV IMM § 11.2.3.B provides, in part:

IPVs 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.

WV IMM § 11.6.1 provides, in part:

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.

DISCUSSION

Federal regulations define an IPV as making a false statement related to the acquisition of SNAP benefits. To show the Defendant committed an IPV, the Movant must provide clear and convincing evidence that the Defendant intentionally concealed or withheld facts pertinent to her SNAP eligibility.

The Defendant completed an application for SNAP benefits on August 23, 2018, and a redetermination of benefits on January 30, 2019. The only source of earned income reported on each form for her AG, was earned income received by [REDACTED]. The Defendant signed her application and redetermination forms and acknowledged the information provided was true and correct; however, she failed to report on the forms or during her interview that she was employed.

The Movant, through its investigation, found through the Bureau of Employment Programs Employee Wage Data Match, and the [REDACTED] County Board of Education, the Defendant was employed full-time by and received earned income from the [REDACTED] County Board of Education from June 01, 2016 through September 16, 2019, during and beyond the date of her August 2018 application and January 2019 review.

The Movant established by clear and convincing evidence the Defendant made false statements at the time of application and review to acquire SNAP benefits she was not entitled to receive, thereby meeting the definition of an IPV.

Pursuant to regulations, individuals found to have committed an IPV through an ADH shall be ineligible to participate in SNAP for a specified time, depending on the number of offenses committed. Because the Defendant had no previous history of IPV disqualification penalties, a first-offense twelve (12) month disqualification penalty should be imposed, beginning in accordance with timelines established in federal regulations.

The Defendant did not appear for the hearing, and as such could not dispute facts presented by the Movant.

CONCLUSIONS OF LAW

- 1) By failing to report her earned income, the Appellant made a false statement to obtain SNAP benefits, which constitutes an IPV.
- 2) Because the action of the Defendant constitutes an IPV, the Movant must disqualify the Defendant from receipt of SNAP benefits.
- 3) Because the IPV is a first offense, the disqualification period is one year beginning March 1, 2020.

DECISION

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation (IPV). The Defendant will be disqualified from receipt of SNAP benefits for a period of one year, beginning March 01, 2020.

ENTERED this _____ day of January 2020.

**Angela D. Signore
State Hearing Officer**