



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

Bill J. Crouch
Cabinet Secretary

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

Jolynn Marra
Interim Inspector General

January 21, 2020

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 19-BOR-2759

Dear Mr. [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: Anisha Eye, [REDACTED] County DHHR

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

██████████,

Defendant,

v.

Action Number: 19-BOR-2759

**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 25, 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. The hearing was convened on January 7, 2020.

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

At the hearing, the Movant appeared by Anisha Eye, Repayment Investigator. The Defendant failed to appear. The witness was sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 Hearing Summary
- M-2 Case Members History Screen Print
- M-3 SNAP Issuance History Disbursement Screen Prints
- M-4 SNAP Allotment Determination Screen Print
- M-5 Non-Financial Eligibility Determination Screen Print
- M-6 SNAP Claim Determination Form
- M-7 SNAP Claim Calculation Sheets
- M-8 Case Comments from October 2017 through September 2019
- M-9 Employee Wage Date Screen Print
- M-10 SNAP 6 or 12-Month Contact Form received February 4, 2019
- M-11 SNAP and Medicaid Review Form received July 15, 2019

- M-12 Waiver of Administrative Disqualification Hearing (unsigned copy)
- M-13 Advance Notice of Waiver of Administrative Disqualification Hearing dated November 12, 2019
- M-14 West Virginia Income Maintenance Manual §§1.2.4, 11.2, and 11.6
- M-15 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 and requested that a SNAP penalty of twelve (12) months be imposed against him.
- 2) The Defendant was notified of the hearing by scheduling order mailed on December 3, 2019. The Defendant failed to appear for the hearing or provide good cause for his 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 a SNAP contact form on February 2, 2019 and reported no earned income for the household (Exhibit M-10).
- 4) SNAP benefits were approved based on the information provided by the Defendant.
- 5) The Defendant submitted a SNAP eligibility review form on August 20, 2019 and reported no earned income for the household (Exhibit M-11).
- 6) The Defendant reported on August 29, 2019 during a telephone interview that his wife, [REDACTED], began working in September 2018 (Exhibit M-8).
- 7) The Respondent verified through the Bureau for Employment Programs data exchange system that [REDACTED] had earnings from [REDACTED] since the fourth quarter of 2018 (Exhibit M-9).

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, 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 §11.2.3.B states that 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.

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 §1.2.4 states that it is the client's responsibility to provide information about his or her circumstances so the Worker is able to make a correct decision about his or her eligibility.

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 the February 2019 SNAP contact form and the August 2019 SNAP review form by denying earned income for his household. The Movant provided clear and convincing evidence that [REDACTED] had earned income since September 2018. The Defendant's actions meet the definition of an Intentional Program Violation.

CONCLUSIONS OF LAW

- 1) The Defendant made false statements on his February 4, 2019 SNAP contact form and August 20, 2019 SNAP review form by reporting no earned income for his household.
- 2) The Movant provided clear and convincing evidence that the Defendant's wife had earned income since September 2018.
- 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 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, he will be excluded from participation in SNAP for 12 months, effective March 1, 2020.

ENTERED this 21st day of January 2020.

**Kristi Logan
State Hearing Officer**