



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

February 23, 2021

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 21-BOR-1075

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
Certified State Hearing Officer
Member, State Board of Review

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

cc: Birdena Porter, [REDACTED] County DHHR

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

██████████,

Defendant,

v.

Action Number: 21-BOR-1075

**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 January 19, 2021. 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 February 23, 2021.

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 Birdena Porter, Repayment Investigator. The Defendant appeared *pro se*. Both witnesses were 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 Calculations Sheets
- M-4 SNAP Issuance History-Disbursement Screen
- M-5 SNAP Allotment Determination Screen Prints
- M-6 Case Members History Screen Print
- M-7 Case Comments from October 2019 – August 2020
- M-8 SNAP and Medicaid/WV CHIP Review Form (CSLR) received October 9, 2019
- M-9 Employee Check Record from January 1, 2019 – September 21, 2020
- M-10 Advance Notice of Administrative Disqualification Hearing Waiver dated January 4, 2021

- M-11 Waiver of Administrative Disqualification Hearing (unsigned copy)
- M-12 West Virginia Income Maintenance Manual §1.2.4
- M-13 West Virginia Income Maintenance Manual §§11.1 and 11.2
- M-14 West Virginia Income Maintenance Manual §11.6
- M-15 Code of Federal Regulations – 7 CFR §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 Movant alleged that the Defendant committed an Intentional Program Violation by falsely reporting his income and requested that a SNAP penalty of twelve (12) months be imposed against him.
- 2) The Defendant submitted a SNAP review form to the Respondent on October 9, 2019 (Exhibit M-8).
- 3) Section five (5) of the SNAP review form asks for information for anyone in the household who is working. This section was left blank by the Defendant (Exhibit M-8).
- 4) The Defendant completed a telephone interview with his caseworker on October 22, 2019. The Defendant reported that he had no income (Exhibit M-7).
- 5) SNAP benefits were recertified for the Defendant based upon the information provided (Exhibit M-4).
- 6) The Movant discovered that the Defendant was hired by [REDACTED] on March 26, 2019. He received his first paycheck on April 19, 2019 (Exhibit M-9).
- 7) The Movant contended that the Defendant committed an Intentional Program Violation by falsely reporting that he had no income during the October 2019 SNAP review when he began employment March 2019.
- 8) The Defendant has no prior Intentional Program Violation offenses.

APPLICABLE POLICY

Code of Federal Regulations 7 CFR §273.16 (c) defines an Intentional Program Violation as 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.

Code of Federal Regulations 7 CFR §273.16 (e)(6) states the determination of an Intentional Program Violation will be based on clear and convincing evidence that demonstrates that the household member committed and intended to commit an Intentional Program Violation as defined above.

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

DISCUSSION

Federal regulations define an Intentional Program Violation as making a false or misleading statement, or misrepresenting, concealing or withholding facts related to the acquisition of SNAP benefits. The determination of an Intentional Program Violation will be based on clear and convincing evidence that demonstrates that the household member committed and intended to commit an Intentional Program Violation as defined above.

The Defendant completed a SNAP eligibility review in October 2019 and reported that he had no income. The Movant provided evidence that the Defendant started working in March 2019 and received regular paychecks through April 2020. The Movant contended that as a result of falsely reporting his income during the eligibility review, the Defendant was issued \$890 in SNAP benefits from November 2019 through March 2020 for which he was not entitled to receive.

The Defendant testified that when he initially applied for SNAP benefits, he was participating in a drug treatment program. The Defendant purported that his case manager through the program

encouraged him to apply for SNAP benefits and advised him that “she would take care of it”. The Defendant stated he did not intentionally withhold information from the Movant and understood if he had to repay any benefits that he was not eligible for.

Although the Defendant contended that he did not purposefully withhold information regarding his employment from the Movant, the Defendant clearly made a false statement to his caseworker during the October 2019 interview by reporting no income. The Defendant’s argument that he was under the impression that his drug treatment case manager would intervene on his behalf in notifying the Movant of any income changes is unconvincing and without merit.

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

CONCLUSIONS OF LAW

- 1) Federal regulations define an Intentional Program Violation as making a false or misleading statement related to the acquisition of SNAP benefits.
- 2) The Defendant reported no income during his October 2019 SNAP eligibility redetermination.
- 3) The Defendant began working in March 2019 and received regular income throughout his receipt of SNAP benefits.
- 4) By making a false statement to receive SNAP benefits, the Defendant has committed an Intentional Program Violation.
- 5) 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. He will be disqualified from participating in the Supplemental Nutrition Assistance Program for 12 months, effective April 1, 2021.

ENTERED this 23rd day of February 2021.

Kristi Logan
Certified State Hearing Officer