



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Bill J. Crouch
Cabinet Secretary

Jolynn Marra
Interim Inspector General

March 31, 2021

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 21-BOR-1187

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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

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

cc: Debra Carey, WVDHHR

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

██████████,

Defendant,

v.

Action Number: 21-BOR-1187

**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 February 5, 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 Section 273.16. The hearing was convened on March 16, 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 (IPV) and should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Movant appeared by Debra Carey, Repayment Investigator, WVDHHR. The Defendant failed to appear.

The witness was sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 ADH Hearing Summary
- M-2 Benefit Recovery Referral
- M-3 SNAP 6 or 12 Month Contact Form signed by Defendant on October 7, 2020
- M-4 Case Comments
- M-5 SNAP Issuance History- Disbursement
- M-6 Employee Wage Data
- M-7 Pay stubs, Wage History and Employment Data from ██████████
██████████
- M-8 Food Stamp Claim Determination, Food Stamp Calculation Sheets and Food Stamp Allotment Determinations
- M-9 Advance Notice of Administrative Disqualification Hearing Waiver dated January 19, 2021
- M-10 Waiver of Administrative Disqualification Hearing form

M-11	West Virginia Income Maintenance Manual Chapter 1.2.4
M-12	West Virginia Income Maintenance Manual Chapter 10.4.2
M-13	West Virginia Income Maintenance Manual Chapters 11.2, 11.2.2 and 11.2.3
M-14	Code of Federal Regulations Section 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) A request for an Administrative Disqualification Hearing was received by the Board of Review from the West Virginia Department of Health and Human Resources, hereinafter referred to as Movant, on February 5, 2021.
- 2) The Movant contends that the Defendant has committed an Intentional Program Violation (IPV) and recommends that the Defendant be disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, for a period of 12 months.
- 3) Notification of the March 16, 2021 hearing was mailed to the Defendant on or about February 9, 2021 via First Class U.S. Mail as the Defendant was an active recipient of Department benefits.
- 4) The hearing convened as scheduled at 9 a.m. on March 16, 2021, and as of 9:15 a.m., the Defendant failed to call in for the telephone hearing. As set forth in the Code of Federal Regulations found at §7 CFR 273.16 (e) (4), and the West Virginia Department of Health and Human Resources Common Chapters Manual Chapter 740.20, the hearing was conducted without the Defendant in attendance.
- 5) The Movant's Investigations and Fraud Management (IFM) Unit received a referral on October 14, 2020 (M-2) indicating that the Defendant failed to report that her earned income increased.
- 6) The Defendant submitted a SNAP 6 or 12 Month Contact Form (M-3) to the Respondent on October 7, 2020, at which time she reported \$1,329.68 in gross monthly income and indicated that her gross earned income had not increased or decreased by more than \$100.
- 7) Employee Wage Data (M-6) reveals that the Defendant had total gross earned income of \$5,766.11 for the third quarter of 2020 (July 2020 through September 2020) for a monthly average of \$1,922.03.

- 8) As a result of the Defendant's failure to correctly report a change in earned income, she received \$1,277 in SNAP benefits to which she was not entitled for the period of October 7, 2020 through December 2020 (M-8).

APPLICABLE POLICY

Code of Federal Regulations Section 273.16.c.1 (M-14) states that an Intentional Program Violation includes committing an act that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of coupons, authorization cards or reusable documents as part of an automated benefit delivery system (access device).

West Virginia Income Maintenance Manual Chapter 11.2.3.B (M-13) 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 Chapter 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 Chapter 1.2.4 (M-11) states that it is the client's responsibility to provide complete and accurate information about his/her circumstances so that the worker is able to make a correct determination about his/her eligibility.

DISCUSSION

Regulations specify that an Intentional Program Violation includes committing an act that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of coupons, authorization cards or reusable documents as part of an automated benefit delivery system (access device). IPV's include making false or misleading statements, misrepresenting facts, or concealing or withholding information. An individual found to have committed an IPV is ineligible to receive SNAP benefits for a specified time, depending on the number of offenses committed.

Evidence reveals that the Defendant failed to report an increase in earned income of more than \$100 on the contact form she submitted to the Department in October 2020. The Defendant reported on the form that her income of \$1,329.68 had not increased by more than \$100. However, wage history reveals that her third quarter earnings (July 2020-September 2020) averaged \$1,922.03 per month.

As the Defendant failed to report the income increase, the Movant's proposal to apply an Intentional Program Violation penalty to her SNAP benefits is correct.

CONCLUSIONS OF LAW

- 1) An Intentional Program Violation can be established for SNAP purposes when an individual withholds information or misrepresents his/her case circumstances.
- 2) The Defendant failed to report an increase in earned income to the Movant.
- 3) The Defendant committed a first-offense IPV by failing to report income, resulting in a SNAP over issuance.
- 5) The penalty for a first-offense Intentional Program Violation is exclusion from participation in SNAP for 12 months.

DECISION

The State Hearing Officer finds that the Defendant committed an Intentional Program Violation. As this is the Defendant's first offense, she will be excluded from participation in SNAP for 12 months, effective May 2021.

ENTERED this 31st Day of March 2021.

**Pamela L. Hinzman
State Hearing Officer**