



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

April 13, 2021

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 21-BOR-1253

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,

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-1253

**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 22, 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 March 30, 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 failed to appear. The witness was 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 Calculation Sheets
- M-4 SNAP Issuance History-Disbursement Screen Print
- M-5 SNAP Allotment Determination Screen Prints
- M-6 Case Members History Screen Print
- M-7 Case Comments from August 2019 – March 2020
- M-8 6 or 12-Month Contact Form (PRC-2) received January 9, 2020
- M-9 Employment Verification from ██████████

- M-10 Advance Notice of Administrative Disqualification Hearing Waiver dated February 10, 2021
- M-11 Waiver of Administrative Disqualification Waiver (unsigned copy)
- M-12 West Virginia Income Maintenance Manual §1.2.4
- M-13 West Virginia Income Maintenance Manual §11.2
- M-14 West Virginia Income Maintenance Manual §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 by falsely reporting her income and requested that a SNAP penalty of twelve (12) months be imposed against her.
- 2) The Defendant was notified of the hearing by scheduling order mailed on February 23, 2021. The Defendant failed to appear for the hearing or provide good cause for her failure to do so. In accordance with 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 periodic reporting form to the Respondent on January 9, 2020. The Defendant reported that no one in her household had earned income (Exhibit M-8).
- 4) SNAP benefits were recertified based upon the information provided by the Defendant.
- 5) The Movant discovered that the Defendant was hired by [REDACTED] on August 12, 2019 and received regular earnings until her separation from employment in May 2020 (Exhibit M-9).

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 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 can make a correct decision about his or her eligibility.

DISCUSSION

The Defendant completed a periodic review in January 2020 and reported no earnings for her household. The Movant provided clear and convincing evidence that the Defendant started working in August 2019 and consistently received income from employment prior to the submission of the periodic reporting form and throughout the Defendant's SNAP certification period.

The Defendant's action of making a false statement on her periodic review form meets 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 on her January 2020 periodic review form.
- 3) The Defendant began working in August 2019 and received regular income throughout her 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 has committed an Intentional Program Violation. She will be disqualified from participating in the Supplemental Nutrition Assistance Program for 12 months, effective May 1, 2021

ENTERED this 13th day of April 2021.

Kristi Logan
Certified State Hearing Officer