



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

April 15, 2021

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 21-BOR-1266

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-1266

**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 24, 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 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 (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 application submitted to Respondent on November 19, 2019
- M-4 Case Comments
- M-5 SNAP Issuance History- Disbursement
- M-6 Claimant Profile Data and Benefit Payment History
- M-7 Child Support Financial Summaries and Child Support Disbursement documentation
- M-8 Food Stamp Claim Determination forms, Benefit Recovery Referral, Food Stamp Calculation Sheets and Food Stamp Allotment Determination forms

M-9	Advance Notice of Administrative Disqualification Hearing Waiver dated February 5, 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 Chapter 11.2
M-14	Code of Federal Regulations Section 273.16
M-15	Employment Statement from [REDACTED]

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 24, 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 30, 2021 hearing was mailed to the Defendant via First Class U.S. Mail on or about February 25, 2021, as the Defendant is an active recipient of Department benefits.
- 4) The hearing convened as scheduled at 10 a.m. on March 30, 2021, and as of 10:15 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 November 19, 2020 (M-2), indicating that the Defendant had failed to report the receipt of unearned income.
- 6) The Defendant submitted a SNAP application with Rights and Responsibilities to the Movant on November 19, 2019 (M-3).
- 7) An economic service worker completed an interview with the Defendant on November 20, 2019, at which time the Defendant reported that she had lost employment with [REDACTED] (M-4).

- 8) The Defendant's SNAP application was pended for verification that the Defendant was no longer employed by [REDACTED].
- 9) An Employment Statement from [REDACTED] was submitted on November 27, 2019, indicating that the Defendant was hired on September 3, 2019 and was fired on November 19, 2019 because she did not successfully complete a probationary period (M-15).
- 10) The SNAP application was pending from November 20, 2019 through December 4, 2019.
- 11) The Defendant failed to report that she had applied for Unemployment Compensation Income (UCI) on November 20, 2019 and began receiving UCI benefits on December 4, 2019 (M-6).
- 12) The Respondent received a data exchange report on January 14, 2020, indicating that the Defendant was receiving UCI of \$243 per week (M-6).
- 13) As a result of the unreported income, the Defendant received \$546 in SNAP benefits to which she was not entitled for the period of December 2019 through April 2020 (M-8).

APPLICABLE POLICY

West Virginia Income Maintenance Manual §10.4.2 (M-14) states that all SNAP Assistance Groups must report changes related to eligibility and benefit amount at application and redetermination.

West Virginia Income Maintenance Manual §1.2.4 states that 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 (M-11).

Code of Federal Regulations Section 273.16.c.1 (M-16) 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 §11.2.3.B (M-15) 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.

DISCUSSION

Regulations specify that the client's responsibility is to provide complete and accurate information about his/her circumstances so that the worker can make a correct determination about his/her eligibility. 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). 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 completed an interview with a Department worker on November 20, 2019 as part of the SNAP application process. At that time, the Defendant reported that she was no longer employed with [REDACTED] and her application was pended for loss of employment verification. The Defendant failed to report that she had applied for UCI benefits on November 20, 2019 and subsequently received her first payment on December 4, 2019, the date her application was approved.

As the Defendant failed to report that she had applied for and was subsequently approved for UCI benefits during the SNAP application process, the Movant's proposal to apply an Intentional Program Violation penalty to her SNAP benefits is correct.

CONCLUSIONS OF LAW

- 1) The Defendant failed to report that she had applied for and began receiving UCI benefits during her SNAP application process.
- 2) Failure to report the unemployment income resulted in an overpayment of SNAP benefits.
- 3) An Intentional Program Violation can be established when an individual withholds information related to the use, presentation, transfer, acquisition, receipt, or possession of SNAP benefits.
- 4) The Defendant committed a first offense IPV by withholding income information.
- 5) The penalty for a first offense Intentional Program Violation is exclusion from participation in SNAP for 12 months.
- 6) The Movant's proposal to apply an IPV penalty to the Defendant's SNAP benefits is correct.

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 June 2021.

ENTERED this 15th Day of April 2021.

**Pamela L. Hinzman
State Hearing Officer**