



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
State Capitol Complex
Building 6, Room 817-B
Charleston, West Virginia 25305
Telephone: (304) 558-2278 Fax: (304) 558-1992

Bill J. Crouch
Cabinet Secretary

Jolynn Marra
Interim Inspector General

May 6, 2021

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 21-BOR-1388

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,

Angela D. Signore
State Hearing Officer
Member, State Board of Review

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

cc: Birdena Porter, Department Representative

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

██████████,

Defendant,

v.

Action Number: 21-BOR-1388

**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 March 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. This hearing was convened on May 4, 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 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, Investigations and Fraud Management (IFM). The Defendant failed to appear. The Department witness was sworn and the following documents were admitted into evidence.

EXHIBITS

Movant's Exhibits:

- M-1 ADH Hearing Summary
- M-2 Food Stamp Claim Determination
- M-3 Food Stamp Claim Calculation Sheet, dated December 26, 2017 – May 31, 2018
- M-4 SNAP Issuance History, dated June 2017 – May 2020

- M-5 Food Stamp Allotment Determination, dated April 20, 2021
- M-6 Case Household Information, dated April 20, 2021
- M-7 WV PATH eligibility system printout of Case Comments, dated December 29, 2017 through January 02, 2018
- M-8 SNAP Application, dated December 26, 2017
- M-9 Household Employee Wage Data, and Claimant Profile Data, dated April 20, 2021
- M-10 Advance Notice of Administrative Disqualification Hearing Waiver, dated March 08, 2021
- M-11 Waiver of Administrative Disqualification Hearing, unsigned Benefits Recovery Referral
- M-12 West Virginia Income Maintenance Manual (WVIMM) §§ 1.2.3.F.2 – 1.2.4
- M-13 WVIMM §§ 11.1 – 11.2.1
- M-14 WVIMM §§ 11.6 – 11.6.2
- M-15 Code of Federal Regulations 7 CFR § 273.16
- M-16 Federal Register Reference Article 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 Investigation and Fraud Management (IFM) Unit of West Virginia Department of Health and Human Resources (WVDHHR) alleged an act of Intentional Program Violation (IPV) by the Defendant for withholding information regarding household income in his Assistance Group (AG) resulting in an over-issuance of SNAP and is requesting that he be disqualified from participation in SNAP for a period of twelve (12) months.
- 2) The Defendant was a recipient of SNAP benefits for a one (1) person AG.
- 3) On December 26, 2017, the Defendant completed a SNAP review and reported there was no source of income in his AG. (Exhibit M-6)
- 4) The Defendant electronically signed the SNAP review form and consented that the information contained was true and correct to the best of his knowledge. (Exhibit M-6)
- 5) The Respondent verified through the Bureau for Employment Programs data exchange system that the Defendant had earnings from [REDACTED] since the second quarter of 2017. (Exhibit M-5)
- 6) The Defendant has no previous history of Intentional Program Violations (IPVs). (Exhibit M-9)

APPLICABLE POLICY

Code of Federal Regulations (CFR) §273.16 provides:

An individual making false or misleading statement, or misrepresenting, concealing, or withholding facts, violating the Food Stamp Program (SNAP), 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 to an Intentional Program Violation (IPV).

West Virginia Income Maintenance Manual (WVIMM) § 1.2.4 Client Responsibility provides, in part:

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.

WV IMM § 3.2.1.B.5 provides, in part:

Persons who have been found guilty for an IPV are disqualified as follows: First offense, One-year disqualification; Second offense, Two-year disqualification; and Third offense, permanent disqualification.

WVIMM §§ 6.1-6.1.2 Data Exchanges provides, in part:

Federal Data Hub and Income and Eligibility Verification System (IEVS) are electronic sources that perform data matches to verify types of income/assets. Data exchange information available at application and review may be used by the Worker to evaluate discrepancies in the client's statement when it disagrees with Hub data.

Information is provided to the Worker through data exchanges. Information obtained through IEVS is used to verify the eligibility of the AG, to verify proper amount of benefits, and to determine if the AG received benefits to which it was not entitled.

WV IMM § 11.2.3.B provides, in part:

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.

WV IMM § 11.6.1 provides, in part:

A willfully false statement is one that is deliberately given, with the intent that it be accepted as true, and with the knowledge that it is false.

DISCUSSION

Federal regulations define an IPV as making a false statement related to the acquisition of SNAP benefits. To show the Defendant committed an IPV, the Movant must provide clear and convincing evidence that the Defendant intentionally concealed or withheld facts pertinent to his SNAP eligibility.

The Defendant completed an application for SNAP benefits on December 26, 2017 and listed no source of earned income for his AG. The Defendant electronically signed his redetermination form and acknowledged the information provided was true and correct; however, he failed to report income earnings from [REDACTED] on the form or during his interview.

The Movant, through its investigation, found through the Bureau of Employment Programs Employee Wage Data Match, that Mr. [REDACTED] was employed by and received earned income from [REDACTED] since the second quarter of 2017, during and beyond the date of his December 2017 application.

The Movant established by clear and convincing evidence the Defendant made false statements at the time of application to acquire SNAP benefits he was not entitled to receive, thereby meeting the definition of an IPV.

Pursuant to regulations, individuals found to have committed an IPV through an ADH shall be ineligible to participate in SNAP for a specified time, depending on the number of offenses committed. Because the Defendant had no previous history of IPV disqualification penalties, a first-offense twelve (12) month disqualification penalty should be imposed, beginning in accordance with timelines established in federal regulations.

The Defendant did not appear for the hearing, and as such could not dispute facts presented by the Movant.

CONCLUSIONS OF LAW

- 1) By failing to report household earned income, the Appellant made a false statement to obtain SNAP benefits, which constitutes an IPV.
- 2) Because the action of the Defendant constitutes an IPV, the Movant must disqualify the Defendant from receipt of SNAP benefits.
- 3) Because the IPV is a first offense, the disqualification period is one year beginning June 1, 2021.

DECISION

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation (IPV). The Defendant will be disqualified from receipt of SNAP benefits for a period of one year, beginning June 01, 2021.

ENTERED this _____ day of May 2021.

**Angela D. Signore
State Hearing Officer**