



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

June 30, 2021

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 21-BOR-1639

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-1639

**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 May 25, 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 June 29, 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 Allotment Determination Forms
- M-4 SNAP Issuance History-Disbursement Screen Prints (West Virginia)
- M-5 SNAP Allotment Determination Screen Prints
- M-6 Case Members History Screen Print
- M-7 Case Comments from September 2018 – February 2019
- M-8 SNAP Application dated September 18, 2018

- M-9 Virginia SNAP Payment History Data Screen Prints and Electronic Benefit Transfer (EBT) Case History
- M-10 Advance Notice of Administrative Disqualification Hearing Waiver dated May 12, 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 §11.2
- 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 receiving SNAP benefits in [REDACTED] and West Virginia simultaneously and requested that a SNAP penalty of twelve (12) months be imposed against her.
- 2) The Defendant applied for SNAP benefits in West Virginia on September 13, 2018 (Exhibit M-8).
- 3) On the SNAP application, the Defendant reported receiving SNAP benefits in [REDACTED] for September 2018 (Exhibit M-7).
- 4) The Movant requested verification that the Defendant's SNAP case in [REDACTED] had been closed and verification of her income (Exhibit M-7).
- 5) On September 24, 2018, the Movant received verification that the Defendant's SNAP case would close in [REDACTED] effective September 30, 2018. The Defendant's case remained pending for verification of her income (Exhibit M-7).
- 6) SNAP benefits for the Defendant were approved in West Virginia on November 21, 2018, retroactive to October 2018 (Exhibit M-4).
- 7) On October 9, 2018, the state of [REDACTED] deposited \$140 in SNAP benefits onto the Defendant's EBT card. [REDACTED] continued to issue SNAP benefits to the Defendant from November 2018 through March 2019 of \$173 monthly (Exhibit M-9).

- 7) Transaction history of the Defendant's EBT card issued from [REDACTED] document that the Defendant accessed her SNAP benefits while receiving SNAP benefits in West Virginia (Exhibit M-9).
- 8) The Defendant received SNAP benefits in West Virginia and [REDACTED] from October 2018 through March 2019 simultaneously (Exhibit M-4 and 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 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.

West Virginia Income Maintenance Manual §2.2.1.A states when an individual, who received SNAP benefits in another state, establishes residence in West Virginia and applies for benefits, the Worker must determine when SNAP benefits in the other state were stopped. The individual is eligible in West Virginia for the month following the month in which he last received benefits in the former state of residence, if otherwise eligible.

West Virginia Income Maintenance Manual §2.5.1 states that a client may only receive benefits in one county and state. No person may receive SNAP benefits in more than one assistance group (AG) for the same month.

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 Movant contended that the Defendant was obligated to report that her SNAP case in [REDACTED] remained active while receiving SNAP benefits in West Virginia. The Movant argued that the Defendant continued to spend SNAP benefits that were issued from [REDACTED], while residing in and receiving SNAP benefits in West Virginia.

The Defendant admitted that she had two (2) EBT cards, one from [REDACTED] and one from West Virginia. The Defendant claimed that she did not realize that [REDACTED] continued to deposit SNAP benefits onto her [REDACTED] card after she moved to West Virginia, and that she thought she was only spending the remaining balance on her [REDACTED] EBT card.

It is unclear how the Defendant's SNAP case in [REDACTED] was reopened in October after the Movant verified that her case was closed effective September 30, 2018. The EBT transaction history from [REDACTED] indicated that on October 9, 2018, an initial issuance of \$140 in SNAP benefits was credited to the Defendant's EBT account, and \$173 in ongoing SNAP benefits were issued from November 2018 through March 2019. The Defendant received SNAP benefits for October and November 2018 from [REDACTED], before her SNAP benefits in West Virginia were approved.

The Defendant received over \$1,000 in SNAP benefits from [REDACTED], issued from October 2018 through March 2019, while she resided in West Virginia. Her assertion that she was unaware [REDACTED] continued to issue monthly SNAP benefits once she moved to West Virginia, attributing the SNAP benefits on her [REDACTED] EBT card as a balance left over from previous months, is unconvincing and without merit.

The Defendant intentionally withheld information regarding the reopening of her SNAP case in [REDACTED] from the Movant for the purpose of receiving SNAP benefits in West Virginia simultaneously. 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 or misrepresenting, concealing or withholding facts related to the acquisition of SNAP benefits.
- 2) The Defendant applied for SNAP benefits in West Virginia in September 2018.
- 3) The Defendant's SNAP benefits in [REDACTED] were closed effective September 30, 2018.

- 4) The Defendant's SNAP benefits in [REDACTED] were reinstated on October 9, 2018.
- 5) The Defendant received SNAP benefits from [REDACTED] and West Virginia from October 2018 through March 2019.
- 6) The Defendant intentionally withheld information regarding the continuous receipt of SNAP benefits from [REDACTED] from the Movant.
- 7) The act of withholding or concealing information to receive SNAP benefits constitutes an Intentional Program Violation.
- 8) The Defendant will be disqualified 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 August 1, 2021.

ENTERED this 30th day of June 2021.

Kristi Logan
Certified State Hearing Officer

