



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

July 6, 2021

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 21-BOR-1640

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-1640

**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 Claim Calculation Sheets
- M-4 SNAP Issuance History-Disbursement Screen Prints
- M-5 SNAP Allotment Determination Screen Prints
- M-6 Case Members History Screen Print
- M-7 Case Comments from August 2019 – July 2020
- M-8 SNAP and Medicaid Review Form received August 30, 2019
- M-9 SNAP 6 or 12-Month (Interim) Contact Form received March 2, 2020

- M-10 SNAP and Medicaid Renewal Form received August 22, 2020
- M-11 Employment Data and Wage History from [REDACTED]
- M-12 Advance Notice of Administrative Disqualification Hearing Waiver dated May 12, 2021
- M-13 Waiver of Administrative Disqualification Hearing (unsigned copy)
- M-14 West Virginia Income Maintenance Manual §1.2.4
- M-15 West Virginia Income Maintenance Manual §11
- M-16 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 falsely reporting her household income and requested that a SNAP penalty of twelve (12) months be imposed against her.
- 2) The Defendant submitted a SNAP review form on August 30, 2019. Section 6 of the review form, *Tell Us About Work*, was left blank (Exhibit M-8).
- 3) On September 10, 2019, a telephone interview was conducted with the Defendant in conjunction with her SNAP eligibility review. The Defendant reported no income for the household and reported that her ex-husband was paying her shelter and utility costs (Exhibit M-7).
- 4) The Defendant submitted an Interim Contact Form on March 1, 2020. The Defendant reported no changes to her household income, and made no corrections to Section 4 of the form, *Household Earned Income* (Exhibit M-9).
- 5) The Defendant completed a SNAP review form on August 22, 2020. She reported no income for the household (Exhibit M-10).
- 6) The Movant verified that the Defendant was hired by [REDACTED] on July 15, 2019 and that she has consistently received earnings throughout her receipt of SNAP benefits (Exhibit M-11).
- 7) The Movant established a repayment claim of \$2,055 for SNAP benefits that were issued to the Defendant October 2019 through March 2020 (Exhibits M-2 and M-3).
- 7) The Defendant has no prior Intentional Program Violations.

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 §§11.2 and 11.3 states when an assistance group (AG) has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation (UPV) or Intentional Program Violation (IPV) claim. The claim is the difference between the SNAP entitlement of the AG and the SNAP allotment the AG was entitled to receive.

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 alleged that the Defendant committed an Intentional Program Violation and has requested a 12-month SNAP penalty be imposed against her. The Movant is also seeking repayment of \$2,055 in SNAP benefits that were issued from October 2019 through March 2020.

The Defendant testified that when she was hired at [REDACTED], her employer requested a protective services background check from the Department and assumed the Movant was aware

of the onset of her employment. When she completed the SNAP review forms, the Defendant contended that she thought she was reporting no changes to her income, not that she did not have any income. The Defendant stated it was a misunderstanding in failing to report the onset of employment and that the repayment claim was too much and should not include any additional SNAP benefits that were issued under stimulus funding.

The Defendant failed to report the onset of her income on three (3) review forms and made a false statement during the September 10, 2019 telephone interview when she reported no income. The Appellant's claim that she mistakenly reported no income on three separate occasions is unconvincing and without merit. The Defendant's actions of withholding information and making a false statement about her income from employment constitute an Intentional Program Violation.

Pursuant to policy, when an AG has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing a repayment claim. The claim is the difference between the SNAP entitlement of the AG and the SNAP allotment the AG was entitled to receive. The Defendant received \$2,055 in SNAP benefits from October 2019 through March 2020 for which she was not eligible to receive. The Defendant received the maximum monthly SNAP allotment of \$355 for the six-month repayment claim period based upon zero income. The Appellant was only eligible to receive \$15 in SNAP benefits monthly for October, December, January, February and March and was ineligible for SNAP in November based upon her earnings. The repayment claim period did not include additional SNAP benefits provided through COVID-19 stimulus funding.

Whereas the Defendant committed an Intentional Program Violation, she will be excluded from participation in SNAP for 12 months. The Defendant is responsible to repay SNAP benefits issued from October 2019 through March 2020 for which she was not eligible to receive.

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 was hired at [REDACTED] on July 15, 2019.
- 3) The Defendant reported no income on the August 30, 2019, March 1, 2020 and August 22, 2020 SNAP review forms.
- 4) The Defendant reported no income during a telephone interview on September 10, 2019.
- 5) The act of making a false statement or withholding or concealing information to receive SNAP benefits constitutes an Intentional Program Violation.
- 6) The Defendant has committed an Intentional Program Violation and will be disqualified from participation in SNAP for 12 months.

- 7) When an assistance group receives more SNAP benefits than it was entitled to receive, corrective action is taken by establishing a repayment claim.
- 8) The Defendant is required to repay \$2,055 in SNAP benefits issued from August 2019 through March 2020 for which she was ineligible to receive.

DECISION

It is the finding of the State Hearing Officer that the Defendant has committed an Intentional Program Violation. As this is the Defendant's first offense, she will be excluded from participation in the Supplemental Nutrition Assistance Program for 12 months, effective August 1, 2021 and is responsible to repay \$2,055 in benefits issued from October 2019 through March 2020.

ENTERED this 6th day of July 2021.

**Kristi Logan
Certified State Hearing Officer**