



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 27, 2021



RE: [REDACTED] v. WV DHHR
ACTION NO.: 21-BOR-1665

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,

Kristi Logan
Certified State Hearing Officer
Member, State Board of Review

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

cc: Anisha Eye, [REDACTED] County DHHR

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

[REDACTED]

Defendant,

v.

Action Number: 21-BOR-1665

**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 [REDACTED] requested by the Movant on June 2, 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 July 13, 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 Anisha Eye, 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 Case Members History Screen Print
- M-3 SNAP Issuance History-Disbursement Screen Print
- M-4 SNAP Allotment Determination Screen Prints
- M-5 Non-Financial Eligibility Determination Screen Prints
- M-6 SNAP Claim Determination Form
- M-7 SNAP Claim Calculation Sheets
- M-8 SNAP Review Form (CSLR) received November 5, 2020
- M-9 SNAP 6 or 12-Month Contact Form (PRC-2) received April 2, 2021
- M-10 Employee Wage Data Screen Print
- M-11 Waiver of Administrative Disqualification Hearing (unsigned copy)

- M-12 Advance Notice of Administrative Disqualification Hearing Waiver dated May 12, 2021
- M-13 West Virginia Income Maintenance Manual §§1.4.1, 11.2, and 11.6
- M-14 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 his household income and requested that a SNAP penalty of twelve (12) months be imposed against him.
- 2) The Defendant was notified of the hearing by scheduling order mailed on June 8, 2021. The Defendant failed to appear for the hearing or provide good cause for his 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 SNAP review form to the Movant on November 5, 2020. He reported a loss of employment with [REDACTED]. The Defendant listed no income for his household (Exhibit M-8).
- 4) The Defendant completed a SNAP interim contact form on April 2, 2021. He reported no income for his household (Exhibit M-9).
- 5) The Movant discovered that the Defendant was hired by [REDACTED] on June 25, 2020 and received earnings throughout the third and fourth quarter of 2020 and the first quarter of 2021 (Exhibit M-10).
- 6) The Defendant has no prior Intentional Program Violation offenses.

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.

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 him.

The Defendant made false statements on the November 2020 SNAP review form and the April 2021 interim contact form by reporting that he had no income when he was receiving regular earnings from employment since June 2020. 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 related to the acquisition of SNAP benefits.
- 2) The Defendant reported no income on his November 2020 SNAP review and the April 2021 interim contact form.
- 3) The Defendant started working in June 2020 and received earnings throughout his 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. He will be disqualified from participating in the Supplemental Nutrition Assistance Program for 12 months, effective September 1, 2021.

ENTERED this 27th day of July 2021.

Kristi Logan
Certified State Hearing Officer