



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

September 16, 2021

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 21-BOR-1809

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,

Pamela L. Hinzman  
State Hearing Officer  
Member, State Board of Review

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

cc: Birdena Porter, WVDHHR

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

██████████,

**Defendant,**

v.

**Action Number: 21-BOR-1809**

**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 July 21, 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 August 31, 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 24 months.

At the hearing, the Movant appeared by Birdena Porter, 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            Food Stamp Claim Determination for the period of December 23, 2020-February 2021
- M-3            Food Stamp Claim Determination for the period of June 2021 through August 2021 and Food Stamp Calculation Sheets
- M-4            SNAP Issuance History-Disbursements
- M-5            Food Stamp Allotment Determinations
- M-6            Case Members History
- M-7            Case Comments
- M-8            SNAP application dated December 23, 2020 and LIEAP application dated January 13, 2021

M-9	SNAP 6 or 12 Month Contact Form received by Movant on April 29, 2021, earned income verification and unemployment income verification obtained by the Movant
M-10	Advance Notice of Administrative Disqualification Hearing Waiver
M-11	Waiver of Administrative Disqualification Hearing
M-12	West Virginia Income Maintenance Manual Chapter 1.2.4
M-13	West Virginia Income Maintenance Manual Chapters 11.1, 11.2 and 11.2.1
M-14	West Virginia Income Maintenance Manual Chapter 11.6.1
M-15	Code of Federal Regulations Section 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) 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 July 21, 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 24 months.
- 3) Notification of the August 31, 2021 hearing was mailed to the Defendant on or about July 27, 2021 via First Class U.S. Mail as the Defendant was an active recipient of Department benefits.
- 4) The hearing convened as scheduled at 10 a.m. on August 31, 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 June 28, 2021.
- 6) The referral indicated that the Defendant was working at [REDACTED].
- 7) During the investigation, the Movant determined that the Defendant had been employed with [REDACTED] from July 30, 2018 through February 26, 2021 (Exhibit M-9).

- 8) The Defendant failed to report earned income from [REDACTED] on both his December 23, 2020 SNAP application and his Low-Income Energy Assistance Program (LIEAP) application dated January 13, 2021 (Exhibit M-8).
- 9) The Defendant also submitted a SNAP 6 or 12 Month Contact Form on April 29, 2021, on which he failed to report Unemployment Compensation Income (UCI) benefits he was receiving from the State of Virginia beginning on April 20, 2021 (Exhibit M-9).
- 10) As a result of failure to report earned and unearned income to the Movant, the Defendant received \$3,571 in SNAP benefits to which he was not entitled for the periods of December 23, 2020 through February 2021, and June 2021 through August 2021 (Exhibits M-2, M-3, M-4 and M-5).
- 11) The Movant determined that the Defendant had one prior Intentional Program Violation penalty.

### **APPLICABLE POLICY**

Code of Federal Regulations Section 273.16.c.1(M-15) 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 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 (M-12) states that it is the client's responsibility to provide complete and accurate information about his/her circumstances so that the worker is able to make a correct determination about his/her eligibility.

### **DISCUSSION**

Regulations specify 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). IPV's include making false or misleading statements, misrepresenting facts, or concealing or withholding information. 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.

The Movant contended that the Defendant failed to report earned income to the Department when he completed SNAP and LIEAP applications in December 2020 and January 2021, respectively. He also failed to report the receipt of unemployment income when he completed a 6 or 12 Month Contact Form for SNAP benefits in April 2021. The Movant provided verification of the income from [REDACTED] and the State of [REDACTED].

As the Defendant failed to report both earned and unearned income during these time periods, the decision to apply an Intentional Program Violation penalty to SNAP benefits is correct.

### **CONCLUSIONS OF LAW**

- 1) An Intentional Program Violation can be established for SNAP purposes when an individual misrepresents his/her case circumstances.
- 2) The Defendant failed to report both earned and unearned income to the Movant on his SNAP/LIEAP applications and SNAP contact form.
- 3) The Movant verified the Defendant's earned and unearned income for the time periods in question.
- 4) Evidence is clear and convincing to establish an Intentional Program Violation.
- 5) The penalty for a second-offense Intentional Program Violation is exclusion from participation in SNAP for 24 months.

### **DECISION**

The State Hearing Officer finds that the Defendant committed an Intentional Program Violation. As this is the Defendant's second offense, he will be excluded from participation in SNAP for 24 months, effective October 2021.

ENTERED this 16th Day of September 2021.

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**Pamela L. Hinzman**  
**State Hearing Officer**