



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL

Bill J. Crouch
Cabinet Secretary

BOARD OF REVIEW
Raleigh County DHHR
407 Neville Street
Beckley, WV 25801

Jolynn Marra
Interim Inspector General

November 2, 2021

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 21-BOR-2095

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] DHHR

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

██████████,

Defendant,

v.

Action Number: 21-BOR-2095

**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 September 13, 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 October 19, 2021.

The matter before the Hearing Officer arises from a request by the Department for a determination as to whether the Defendant has committed an Intentional Program Violation and should 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 failed to appear. The witness was 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 Sheet
- M-4 SNAP Issuance-History Disbursement Screen Print
- M-5 SNAP Allotment Determination Screen Print
- M-6 Case Members History Screen Print
- M-7 Case Comments from July 2020 – September 2020
- M-8 SNAP Application dated August 7, 2020, School Clothing Allowance Application dated September 4, 2020, SNAP 6 or 12-Month Contact Form dated January 12, 2021 and SNAP/Medicaid Review dated July 1, 2021
- M-9 Employment Verification from ██████████, Benefit Payment History Screen Print and Child Support Disbursements Screen Print

- M-10 Advance Notice of Administrative Disqualification Hearing Waiver dated September 3, 2021
- M-11 Waiver of Administrative Disqualification Hearing signed September 19, 2021
- 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 §11.6.1
- 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 (IPV) by falsely reporting her household income and requested that a twelve (12) month penalty be imposed against her.
- 2) The Defendant was notified of the hearing by scheduling order mailed on September 14, 2021. The Defendant failed to appear for the hearing or provide good cause for her 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 application on August 7, 2020. She listed no income for her household on the application form (Exhibit M-8).
- 4) During a telephone interview on August 11, 2020, the Defendant reported that Child Support was her household's only income (Exhibit M-7). SNAP benefits were approved for August 2020 based upon the information provided by the Appellant (Exhibit M-5).
- 5) The Movant discovered that the Defendant was hired at [REDACTED] on July 26, 2020 and received earnings throughout her receipt of SNAP benefits in August 2020 (Exhibit M-9).
- 6) The Movant contended that by failing to report her earnings at [REDACTED], the Defendant received \$283 in SNAP benefits for which she was not entitled (Exhibits M-2 and M-3).
- 7) The Defendant no prior IPV offenses.

APPLICABLE POLICY

Code of Federal Regulations, 7 CFR §273.16, states that an individual making a 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 an Intentional Program Violation (IPV).

West Virginia Income Maintenance Manual §1.2.4 states that it is the client's responsibility to provide information about his/her circumstances so the Worker is able to make a correct decision about his/her eligibility

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
- Third offense - permanent disqualification

DISCUSSION

Federal regulations define an Intentional Program Violation as making a false statement related to the acquisition of SNAP benefits. An individual who is found to have committed an Intentional Program Violation is disqualified from participation in SNAP.

The Defendant made a false statement on the August 2020 SNAP application form and during the subsequent telephone interview by reporting Child Support as her household's only income. The Defendant was working and receiving earnings at the time of the SNAP application. The Defendant's actions meet the definition of an Intentional Program Violation.

CONCLUSIONS OF LAW

- 1) The Defendant made a false statement on the August 7, 2020 SNAP application form and during the August 11, 2020 telephone interview by reporting that her household's only income was from Child Support.
- 2) The Movant provided evidence that the Defendant was hired on July 26, 2020 at [REDACTED] and received earnings throughout August 2020.

- 3) The act of making a false statement to obtain SNAP benefits constitutes an Intentional Program Violation.
- 4) 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 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, December 1, 2021.

ENTERED this 2nd day of November 2021.

**Kristi Logan
Certified State Hearing Officer**