



**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 16, 2021

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 21-BOR-2133

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-2133**

**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 22, 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 November 2, 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 June 2020 – March 2021
- M-8 SNAP Application dated August 19, 2020 and SNAP Application dated March 12, 2021
- M-9 Statement from ██████████ and Employment Verification
- M-10 Advance Notice of Administrative Disqualification Waiver dated September 10, 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 (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 28, 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 19, 2020. She listed no income for her household on the application (Exhibit M-8).
- 4) The Defendant had a telephone interview on August 25, 2020 to complete her SNAP application. She reported no income for her household (Exhibit M-7).
- 5) The Movant discovered that the Defendant was hired at [REDACTED] on July 30, 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 employment at application, the Defendant received \$241 in SNAP benefits in August 2020 for which she was not entitled (Exhibits M-2 and M-3).

**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 IPVs 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 no income for her household. 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 19, 2020 SNAP application form and during the August 25, 2020 telephone interview by reporting no income for her household.
- 2) The Movant provided evidence that the Defendant was hired on July 30, 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 16<sup>th</sup> day of November 2021.**

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**Kristi Logan  
Certified State Hearing Officer**

