



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

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Cabinet Secretary

Board of Review
State Capitol Complex
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Jolynn Marra
Interim Inspector General

January 20, 2021



RE: [REDACTED] v. WVDHHR
ACTION NO.: 20-BOR-2538

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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

cc: Elizabeth Mullins, Department Representative

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

██████████,

Defendant,

v.

Action Number: 20-BOR-2538

**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 November 18, 2020. 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 January 7, 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 thus should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Movant appeared by Elizabeth Mullins. The Defendant was notified of the hearing but failed to appear, resulting in the hearing being held in the Defendant's absence. The witness was sworn and the following documents were admitted into evidence.

EXHIBITS

Department's Exhibits:

- D-1 Code of Federal Regulations
 7 CFR §273.16

- D-2 Benefit Recovery Referral regarding the Defendant, dated June 16, 2020

- D-3 SNAP application document, signed January 3, 2020
 Rights and Responsibilities form, signed January 3, 2020
 Case Comments screen prints from the Defendant's case, entries dated November
 25, 2019, through December 18, 2020

- D-4 Earned income verification from the Defendant’s employer
Date prepared: July 31, 2020

- D-5 Data system screen prints regarding unearned income to the Defendant
Date retrieved: December 22, 2020

- D-6 SNAP Claim Determination form
SNAP Claim Calculation sheets
Screen prints from the Movant’s data system regarding the Defendant
Screen print of Electronic Disqualified Recipient System (eDRS) query for the Defendant

- D-7 West Virginia Income Maintenance Manual (WVIMM) excerpt
Chapter 1, §1.2.4

- D-8 WVIMM excerpt
Chapter 11, §11.2

- D-9 WVIMM excerpt
Chapter 11, §11.6.1

- D-10 ADH documents
Letter to Defendant, dated September 25, 2020
Advance Notice of Administrative Disqualification Hearing Waiver
Waiver of Administrative Disqualification Hearing

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 Defendant received an overissuance of SNAP benefits between January 2020 and June 2020 in the amount of \$1137. (Exhibit D-6)

- 2) The basis of the overissuance was household income not considered in the determination of the SNAP benefit amount for the Defendant.

- 3) This income – the Defendant’s wages from employment – was not considered in the determination of the Defendant’s SNAP benefit level because it was not reported by the Defendant on his SNAP application dated January 3, 2020. (Exhibit D-3)

- 4) The Defendant was hired for employment on December 5, 2019. (Exhibit D-4)

- 5) The Defendant received his first pay from employment on December 24, 2019. (Exhibit D-4)

- 6) The Defendant continued to receive income from employment consistently on a biweekly basis from his first pay on December 24, 2019, through at least May 26, 2020. (Exhibit D-4)
- 7) The Movant contended the action of the Defendant to conceal information regarding his household income constituted an Intentional Program Violation (IPV) and requested this hearing for the purpose of making that determination.
- 8) The Defendant has no prior IPV offenses. (Exhibit D-6)

APPLICABLE POLICY

The Code of Federal Regulations, 7 CFR §273.16(c) defines an IPV as having intentionally “made a false or misleading statement,” or “concealed or withheld facts” for purposes of SNAP eligibility.

The West Virginia Income Maintenance Manual (WV IMM), Chapter 3.2.1.B.5, indicates a first offense IPV results in a one-year disqualification from SNAP.

DISCUSSION

The Movant requested this hearing to determine if the Defendant committed an Intentional Program Violation (IPV) and thus should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months. To show the Defendant committed an IPV, the Movant must provide clear and convincing evidence that the Defendant intentionally concealed or withheld facts pertinent to his SNAP eligibility.

The Defendant did not appear for the hearing, and as such could not dispute facts presented by the Movant.

The testimony and evidence presented by the Movant show a violation of SNAP regulations by the Defendant that meets the IPV definition. The Defendant started work and received his first pay from that employment in December 2019 (Exhibit D-4). The Defendant applied for SNAP in January 2020 and did not report this employment on his SNAP application (Exhibit D-3). The Defendant continued to receive SNAP benefits based on zero household income, while receiving regular pay from unreported employment, through June 2020. The Defendant concealed or withheld employment and income information from the Movant that resulted in a \$1137 overissuance of SNAP benefits.

The Movant has proven by clear and convincing evidence that the Defendant committed an IPV. As the Defendant has no prior IPV disqualifications, the Movant is correct to disqualify the Defendant from SNAP participation for one year.

CONCLUSION OF LAW

Because the action of the Defendant constitutes an IPV, the Movant must disqualify the Defendant from receipt of SNAP benefits, and because the IPV is a first offense, the disqualification period is one year.

DECISION

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation (IPV). The Defendant will be disqualified from receipt of SNAP benefits for a period of one year, beginning March 1, 2021.

ENTERED this ____ Day of January 2021.

**Todd Thornton
State Hearing Officer**