



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

February 22, 2021

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 20-BOR-2075

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: Birdena Porter, [REDACTED] County DHHR

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

██████████,

**Defendant,**

v.

**Action Number: 20-BOR-2075**

**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 December 22, 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 February 9, 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 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 Sheets
- M-4 SNAP Issuance History-Disbursement Screen Print
- M-5 SNAP Allotment Determination Forms
- M-6 Case Members History Screen Print
- M-7 Case Comments from March 2019-February 2020
- M-8 SNAP Application dated July 15, 2019
- M-9 6- or 12-Month Contact Form (PRC-2) dated November 26, 2019
- M-10 Employment Verification Screen Prints from The Work Number

- M-11 Advance Notice of Administrative Disqualification Hearing Waiver dated December 9, 2020
- M-12 Waiver of Administrative Disqualification Hearing (unsigned copy)
- M-13 West Virginia Income Maintenance Manual §1.2.4
- M-14 West Virginia Income Maintenance Manual §11.2
- M-15 West Virginia Income Maintenance Manual §11.6
- M-16 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 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 January 5, 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 applied for SNAP benefits on July 15, 2019. He reported that he had no income (Exhibits M-7 and M-8).
- 4) SNAP benefits were approved based on the information provided by the Defendant (Exhibits M-4 and M-5).
- 5) The Defendant submitted a periodic reporting form on November 26, 2019. The Defendant reported that he had no income (Exhibit M-7 and M-9).
- 6) SNAP benefits were recertified based on the Defendant's statement.
- 7) The Movant discovered that the Defendant began working at [REDACTED] on June 11, 2019 and received his first paycheck on June 28, 2019 (Exhibit M-10).
- 8) The Defendant received regular earnings from [REDACTED] through April 2020 (Exhibit M-10).

### **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 related to the acquisition of SNAP benefits.

The Defendant applied for SNAP benefits on July 15, 2019 and completed a periodic review in November 2019. The Defendant reported no income on both occasions. The Movant provided clear and convincing evidence that the Defendant started working in June 2019 and had income from that employment prior to the date of his SNAP application in July 2019. The Defendant consistently received income through April 2020.

The Defendant's actions of making a false statement on his SNAP application and periodic review form meets 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 July 2019 SNAP application and November 2019 periodic review form.
- 3) The Defendant began working in June 2019 and received regular income 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 April 1, 2021.

**ENTERED this 22<sup>nd</sup> day of February 2021.**

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**Kristi Logan  
Certified State Hearing Officer**