



**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**

July 12, 2022



RE: [REDACTED] v. WV DHHR
ACTION NO.: 22-BOR-1670

Dear [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: Cassie Burns, [REDACTED] DHHR

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

██████████,

Defendant,

v.

Action Number: 22-BOR-1670

**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 May 23, 2022. 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 June 28, 2022.

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 be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for twelve (12) months.

At the hearing, the Movant appeared by Cassie Burns, Criminal Investigator. The Defendant failed to appear. The witness was sworn in, and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 Code of Federal Regulations – 7 CFR §273.16
- M-2 Report of Overpayment Determination and SNAP Issuance History-Disbursement
- M-3 Order Placing the Defendant on Deferred Adjudication by the Circuit Court of ██████████, West Virginia dated March 29, 2022
- M-4 Employment Verification from ██████████
- M-5 SNAP Application dated April 17, 2016
- M-6 SNAP 6 or 12-Month Contact Form dated June 8, 2016
- M-7 West Virginia Income Maintenance Manual §1.2.4
- M-8 West Virginia Income Maintenance Manual §11.2
- M-9 West Virginia Income Maintenance Manual §11.6
- M-10 Advance Notice of Administrative Disqualification Waiver dated May 9, 2022

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 his income and requested that a twelve (12) month penalty be imposed against him.
- 2) The Defendant was notified of the hearing by scheduling order mailed on May 24, 2022. 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 April 17, 2016 and reported that he had no income (Exhibit M-5).
- 4) The Defendant completed a SNAP interim contact form on June 8, 2016 and continued to report that he had no income (Exhibit M-6).
- 5) The Movant discovered that the Defendant was hired by [REDACTED] on January 4, 2016 and received regular earnings until December 2016 (Exhibit M-4).
- 6) The Defendant has no previous 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 false statements on the April 2016 SNAP application and June 2016 SNAP interim contact form when he reported that he had no income. The Movant provided evidence that the Defendant was employed and receiving earnings prior to the April 2016 application and throughout his receipt of SNAP. By failing to report his earnings, the Defendant received SNAP benefits for which he was not entitled to receive.

The Defendant's actions meet the definition of an Intentional Program Violation.

CONCLUSIONS OF LAW

- 1) The Defendant made false statements on the April 17, 2016 SNAP application and subsequent SNAP interim contact form by reporting that he had no income.
- 2) The Movant provided evidence that the Defendant had been employed and receiving earnings since January 4, 2016.
- 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, he will be excluded from participation in the Supplemental Nutrition Assistance Program for 12 months, effective August 1, 2022.

ENTERED this 12th day of July 2022.

**Kristi Logan
Certified State Hearing Officer**