



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
4190 Washington Street, West
Charleston, West Virginia 25313
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Bill J. Crouch
Cabinet Secretary

Jolynn Marra
Inspector General

October 14, 2022

[REDACTED]

Re: [REDACTED] v. WV DHHR
ACTION NO.: 22-BOR-1845

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,

Angela D. Signore
State Hearing Officer
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision
Form IG-BR-29
cc: Emily Shumate, Department Representative

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

██████████,

Defendant,

v.

Action Number: 22-BOR-1845

**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 July 11, 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. This hearing was convened on August 11, 2022. However, because the July 13, 2022 scheduling order failed to provide the Appellant with a thirty (30) day notice of the scheduled hearing as required by Federal Regulations, a new scheduling order was issued establishing an Administrative Disqualification Hearing date of September 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 (IPV) and should therefore be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for twelve (12) months.

At the hearing, the Movant appeared by Emily Shumate, Repayment Investigator, Investigations and Fraud Management (IFM). The Defendant failed to appear. The Department witness was sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 ADH Hearing Summary Completed by Emily Shumate, dated August 04, 2022
- M-2 Household Case Members History, dated August 04, 2022
- M-3 SNAP Issuance History, dated February 2022 through August 2022
- M-4 Food Stamp Allotment Determination, dated August 04, 2022
- M-5 WV PATH eligibility system printout of Non-Financial Eligibility Determination, dated August 04, 2022
- M-6 WV PATH eligibility system printout of Case Comments, dated December 30, 2021 through March 22, 2022

- M-7 SNAP Review Form, signed December 30, 2021
- M-8 Handwritten Wage Verification of self employment for [REDACTED]
- M-9 Employment Wage Data, Wage History, and Payroll Register for [REDACTED], completed by [REDACTED], May 04, 2022
- M-10 Waiver of Administrative Disqualification Hearing for [REDACTED], unsigned
- M-11 Advance Notice of Administrative Disqualification Hearing Waiver, dated June 09, 2022
- M-12 West Virginia Income Maintenance Manual (WVIMM) §§ 1.2.4 – 1.2.5
- M-13 WVIMM §§ 11.1 – 11.2.7, 11.6 - 11.6.2
- M-14 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 Investigation and Fraud Management (IFM) Unit of West Virginia Department of Health and Human Resources (WVDHHR) alleged an act of Intentional Program Violation (IPV) by the Defendant for withholding information regarding household income in her Assistance Group (AG) resulting in an over-issuance of SNAP and is requesting that she be disqualified from participation in SNAP for a period of twelve (12) months.
- 2) The Defendant was a recipient of SNAP benefits for a three (3) person AG which included herself, [REDACTED], and [REDACTED], a minor. (Exhibit M-2)
- 3) On December 30, 2021, the Defendant completed an in person SNAP Review and reported employment for herself through [REDACTED], and self employment contractual work for [REDACTED] as the only sources of income in her AG. (Exhibit M-7)
- 4) The Defendant signed the SNAP Review and consented that the information contained was true and correct to the best of her knowledge. (Exhibit M-7)
- 5) On March 22, 2022, the Investigation and Fraud Management Unit received a referral indicating [REDACTED] has been receiving wages from [REDACTED]. (Exhibit M-1)
- 6) The Movant verified through [REDACTED] that [REDACTED] has been employed and receiving wages since March 01, 2021. (Exhibit M-9)
- 7) The Defendant has no previous history of Intentional Program Violations (IPVs). (Exhibit M-1)

APPLICABLE POLICY

Code of Federal Regulations (CFR) §273.16 provides:

An individual making 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 to an Intentional Program Violation (IPV).

West Virginia Income Maintenance Manual (WVIMM) § 1.2.4 Client Responsibility provides, in part:

The client's responsibility is to provide complete and accurate information about his circumstances so that the Worker is able to make a correct determination about his eligibility.

WV IMM § 3.2.1.B.5 provides, in part:

Persons who have been found guilty for an IPV are disqualified as follows: First offense, One-year disqualification; Second offense, Two-year disqualification; and Third offense, permanent disqualification.

WVIMM §§ 6.1-6.1.2 Data Exchanges provides, in part:

Federal Data Hub and Income and Eligibility Verification System (IEVS) are electronic sources that perform data matches to verify types of income/assets. Data exchange information available at application and review may be used by the Worker to evaluate discrepancies in the client's statement when it disagrees with Hub data.

Information is provided to the Worker through data exchanges. Information obtained through IEVS is used to verify the eligibility of the AG, to verify proper amount of benefits, and to determine if the AG received benefits to which it was not entitled.

WV IMM § 11.2.3.B provides, in part:

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.

WV IMM § 11.6.1 provides, in part:

A willfully false statement is one that is deliberately given, with the intent that it be accepted as true, and with the knowledge that it is false.

DISCUSSION

Federal regulations define an Intentional Program Violation (IPV) as making a false statement related to the acquisition of Supplemental Nutrition Assistance Program (SNAP) benefits. The Movant requested the Administrative Disqualification Hearing (ADH) to determine whether the Defendant committed an IPV and should be disqualified from SNAP benefits for a period of twelve (12) months. The Movant must provide clear and convincing evidence that the Defendant intentionally made false statements, concealed, or withheld facts concerning her SNAP eligibility.

On December 30, 2021, the Defendant completed an in person SNAP Review and reported employment for herself through [REDACTED], and self employment contractual work for [REDACTED] as the only sources of income in her AG. The Defendant signed the review and acknowledged the information provided was true and correct to the best of her knowledge; however, she failed to report monthly earned income for [REDACTED] through [REDACTED].

The Movant, through its investigation, by way of [REDACTED], owner of [REDACTED], confirmed that the Defendant began receiving monthly wages beginning March 01, 2021 - during and beyond the date of her December 2021 SNAP review. The Movant established by clear and convincing evidence the Defendant made false statements at the time of her review to acquire SNAP benefits she was not entitled to receive, thereby meeting the definition of an IPV.

Pursuant to regulations, individuals found to have committed an IPV through an ADH shall be ineligible to participate in SNAP for a specified time, depending on the number of offenses committed. Because the Defendant had no previous history of IPV disqualification penalties, a first-offense twelve (12) month disqualification penalty will be imposed, beginning in accordance with timelines established in federal regulations.

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

CONCLUSIONS OF LAW

- 1) By failing to report household earned income, the Appellant made a false statement to obtain SNAP benefits, which constitutes an IPV.
- 2) Because the action of the Defendant constitutes an IPV, the Movant must disqualify the Defendant from receipt of SNAP benefits.
- 3) Because the IPV is a first offense, the disqualification period is twelve (12) months beginning November 1, 2022.

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 twelve (12) months, beginning November 1, 2022.

ENTERED this ____ day of October 2022.

Angela D. Signore
State Hearing Officer