



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

Bill J. Crouch  
Cabinet Secretary

BOARD OF REVIEW  
P.O. Box 1736  
Romney, WV 26757  
304-822-6900

Jolynn Marra  
Inspector General

October 19, 2022

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 22-BOR-2154

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,

Eric L. Phillips  
State Hearing Officer  
Member, State Board of Review

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

cc: Birdena Porter, WVDHHR

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

██████████,

**Defendant,**

v.

**Action Number: 22-BOR-2154**

**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 20, 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 convened on October 19, 2022.

The matter before the Hearing Officer arises from a request by the Movant for a determination as to whether the Defendant committed an Intentional Program Violation and should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for a period of twelve (12) months.

The Movant appeared by Birdena Porter, Repayment Investigator. The Defendant failed to appear. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- M-1 Hearing Summary
- M-2 SNAP Claim Determination Form
- M-3 SNAP Issuance History
- M-4 SNAP Allotment Determination
- M-5 Case Members History
- M-6 Case Comments
- M-7 Periodic Report Form dated May 31, 2022

- M-8 Employment Verification
- M-9 Advance Notice of Administrative Disqualification Hearing Waiver dated September 19, 2022
- M-10 Waiver of Administrative Disqualification Hearing (unsigned)
- M-11 West Virginia Income Maintenance Manual § 1.2.4
- M-12 West Virginia Income Maintenance Manual § 11.1 and 11.2
- M-13 West Virginia Income Maintenance Manual §11.6.1
- M-14 Code of Federal Regulations – Title 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 income available to his household and requested that a twelve (12) month penalty be imposed. (Exhibit M-10)
- 2) The Defendant was notified of the hearing by scheduling order mailed on September 20, 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 was a recipient of SNAP benefits for himself, receiving the maximum benefit. The benefit allotment was based on no income available to the household. (Exhibit M-3)
- 4) On May 31, 2022, the Defendant completed a recertification for SNAP benefits, continuing to report no income available to his household. (Exhibit M-7)
- 5) The Movant discovered that the Defendant was employed with [REDACTED] beginning on January 19, 2022. (Exhibit M-8)
- 6) The Defendant continues to be employed with [REDACTED]
- 7) The Defendant has no previous Intentional Program Violations.

## APPLICABLE POLICY

### **Code of Federal Regulations, 7 CFR §273.16 documents:**

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 documents:**

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 documents:**

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 documents**

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

The Movant requested an Administrative Disqualification Hearing from the Board of Review citing that the Defendant committed an Intentional Program Violation (IPV) by willfully misrepresenting his available income. The Movant requests that the Defendant should be disqualified from receiving SNAP benefits for a period of twelve months. For purposes of the Administrative Disqualification Hearing, the Movant must prove by clear and convincing evidence that the Defendant intentionally made false or misleading statements, misrepresented, concealed, or withheld facts to obtain SNAP assistance for which he was not entitled to receive.

On May 31, 2022, the Defendant completed a recertification for SNAP benefits in which he

indicated that he had no income available to his household (Exhibit M-7). The Movant claims that the Defendant willfully misrepresented his household circumstances because he was employed by [REDACTED] at the time of the recertification for benefits. Evidence revealed that the Defendant commenced employment on January 19, 2022 and continues his employment to present day (Exhibit M-8). The inclusion of the employment income would have resulted in the ineligibility of SNAP assistance for the Defendant (Exhibit M-2).

At the time of recertification for SNAP benefits, the Defendant was afforded the opportunity to provide income information regarding his financial circumstances. Evidence (Exhibit M-7) clearly reveals that the Defendant reported no income available to his household. The Defendant's available income at the time of recertification would have resulted in his ineligibility for SNAP benefits (Exhibit M-2). By failing to report his employment earnings, the Defendant received SNAP benefits for which he was not entitled to receive.

The Defendant's action meets the definition of an Intentional Program Violation.

### **CONCLUSIONS OF LAW**

- 1) The Defendant made a false statement on May 31, 2022 recertification for SNAP benefits by reporting no income available to the household.
- 2) Evidence revealed that the Defendant began receiving employment earnings in January 2022. The inclusion of employment earnings at the May 31, 2022 recertification for SNAP benefits would have resulted in the household's ineligibility for SNAP benefits.
- 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 period of twelve (12) months.

### **DECISION**

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation. The Defendant will be excluded from participation in the Supplemental Nutrition Assistance Program for twelve (12) months effective December 1, 2022.

**ENTERED this \_\_\_\_\_ day of October 2022.**

\_\_\_\_\_  
Eric L. Phillips  
**State Hearing Officer**