



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of the Inspector General
Board of Review

Jeffrey H. Coben, MD
Interim Cabinet Secretary

Sheila Lee
Interim Inspector General

June 27, 2023

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 23-BOR-1658

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: 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: 23-BOR-1658

**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 3, 2023. 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 13, 2023.

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 placed under oath, 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
- M-3 ██████████ Checking Account Statements from August 2017 – June 2021
- M-4 Statement of Advise and Consent and Statement signed by Defendant dated June 23, 2021
- M-5 SNAP Renewal Form dated August 2, 2017
- M-6 SNAP 6 or 12-Month Contact Form dated February 14, 2018
- M-7 Application for Emergency Assistance dated February 14, 2018
- M-8 SNAP and Medicaid Review Form dated August 8, 2018
- M-9 Application for School Clothing Allowance dated August 8, 2018
- M-10 SNAP Application dated March 14, 2019
- M-11 SNAP 6 or 12-Month Contact Form dated August 22, 2019
- M-12 Medicaid Review Form dated October 2, 2019
- M-13 SNAP and Medicaid Review Form dated January 17, 2020

- M-14 SNAP 6 or 12-Month Contact Form dated July 28, 2020
- M-15 SNAP and Medicaid Application dated February 4, 2021
- M-16 West Virginia Income Maintenance Manual §1.2.4
- M-17 West Virginia Income Maintenance Manual §11.2
- M-18 West Virginia Income Maintenance Manual §11.6
- M-19 Advance Notice of Administrative Disqualification Hearing Waiver dated April 20, 2023

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 her household income and requested that a twelve (12) month penalty be imposed against her.
- 2) The Defendant was notified of the hearing by scheduling order mailed on May 9, 2023. The Defendant failed to appear for the hearing or provide good cause for her 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 herself and her two (2) children from September 2017 through July 2021.
- 4) The Defendant reported no income for her household on the August 2, 2017 SNAP review, February 14, 2018 periodic reporting form, March 14, 2019 SNAP application, August 22, 2019 periodic reporting form, the July 28, 2020 periodic reporting form and the February 4, 2021 SNAP application (Exhibits M-5, M-6, M-10, M-11, M-14 and M-15).
- 5) The Defendant reported receiving a HUD utility allowance as her only income on the August 8, 2018 SNAP review form and the January 17, 2020 SNAP review form (Exhibits M-8 and M-13).
- 6) The Defendant jointly owned a checking account with [REDACTED] (Exhibit M-3).
- 7) From September 2017 through December 2018, March 2019 through March 2021, and in June 2021, the money deposited into the joint checking account exceeded the allowable income limit for the Defendant to receive SNAP benefits (Exhibits M-2 and M-3).
- 8) On June 23, 2021, the Defendant signed a statement stating, in pertinent part, "[REDACTED] and I did have a joint checking account that we both used. There were two debit cards – he used one and I used the other. I knew that if I reported [REDACTED]' income that I wouldn't get the benefits". (Exhibit M-4).

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 §11.2.3.B states that 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.

Code of Federal Regulations, 7 CFR §273.16(b), describes the Disqualification penalties:

(1) Individuals found to have committed an Intentional Program Violation either through an administrative disqualification hearing or by a Federal, State or local court, or who have signed either a waiver of right to an administrative disqualification hearing or a disqualification consent agreement in cases referred for prosecution, shall be ineligible to participate in the Program:

(i) For a period of twelve months for the first Intentional Program Violation, except as provided under paragraphs (b)(2), (b)(3), (b)(4), and (b)(5) of this section;

(ii) For a period of twenty-four months upon the second occasion of any Intentional Program Violation, except as provided in paragraphs (b)(2), (b)(3), (b)(4), and (b)(5) of this section; and

(iii) Permanently for the third occasion of any Intentional Program Violation.

(13) The individual must be notified in writing once it is determined that he/she is to be disqualified. The disqualification period shall begin no later than the second month which follows the date the individual receives written notice of the disqualification. The disqualification period must continue uninterrupted until completed regardless of the eligibility of the disqualified individual's household.

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 §4.3.1 Chart 1.21 states that deposits into a bank account of money belonging to someone than a member of the assistance group that is intended for the use of the SNAP assistance group counts as unearned income for SNAP eligibility.

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 numerous SNAP applications and review forms by reporting that she had no income. The Defendant was a joint owner of a checking account with [REDACTED], the father of her children, into which his monthly income was deposited. The Defendant not only had access to [REDACTED] income, but she also admitted in a statement that she used the money from the checking account and intentionally did not report the income to ensure her continuous receipt of SNAP benefits.

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

CONCLUSIONS OF LAW

- 1) The Defendant made multiple false statements on SNAP applications and review forms by reporting that she had no income.
- 2) The Defendant was the joint owner of a checking account with her children's father and regularly accessed the money in this account.
- 3) The Defendant admitted in a statement that she withheld information regarding this income to continue receiving SNAP benefits.
- 4) The act of making a false statement to obtain SNAP benefits constitutes 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 committed an Intentional Program Violation. As this is the Defendant's first offense, she will be excluded from participation in the Supplemental Nutrition Assistance Program for 12 months, effective August 1, 2023.

ENTERED this 27th day of June 2023.

Kristi Logan
Certified State Hearing Officer