



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

**Jeffrey H. Coben, M.D.
Interim Cabinet Secretary**

**BOARD OF REVIEW
Raleigh County DHHR
407 Neville Street
Beckley, WV 25801**

**Sheila Lee
Interim Inspector General**

January 31, 2023

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 22-BOR-2590

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: Birdena Porter, [REDACTED] DHHR

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

██████████,

Defendant,

v.

Action Number: 22-BOR-2590

**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 9, 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 January 17, 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 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 Issuance History-Disbursement Screen Prints
- M-4 SNAP Allotment Determination Screen Prints
- M-5 Case Members History Screen Print
- M-6 SNAP Application dated January 22, 2021
- M-7 Employee Wage Data Screen Prints and Employment Statement received February 24, 2021
- M-8 Advance Notice of Administrative Disqualification Hearing Waiver dated December 7, 2022
- M-9 Waiver of Administrative Disqualification Hearing (blank copy)
- M-10 West Virginia Income Maintenance Manual §1.2.4

- M-11 West Virginia Income Maintenance Manual §§11.1 and 11.2
- M-12 West Virginia Income Maintenance Manual §11.6.1
- M-13 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 (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 December 13, 2022. 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 applied for SNAP benefits on January 22, 2021 (Exhibit M-6).
- 4) The income portions of the SNAP application were left blank (Exhibit M-6).
- 5) During a telephone interview subsequent to the submission of the January 22, 2021 SNAP application, the Defendant reported earned income for her husband, [REDACTED] with [REDACTED].
- 6) The Defendant reported that [REDACTED] had been employed with [REDACTED], but the [REDACTED] had closed due to the COVID-19 pandemic.
- 7) The Defendant submitted a statement from [REDACTED] on February 24, 2021, stating that [REDACTED] last day of employment was January 20, 2021 and the reason for separation from employment was COVID-19 infection (Exhibit M-7).
- 8) SNAP benefits were approved based upon earnings from [REDACTED] (Exhibits M-3 and M-4).
- 9) [REDACTED] earned \$15,840 in the first quarter of 2021 with [REDACTED], \$18,255 in the second quarter, \$23,997.50 in the third quarter, \$26,127 in the fourth quarter and \$19,908 in the first quarter of 2022 (Exhibit M-7).

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.

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 reported that her household's only income was from [REDACTED] when she applied for SNAP benefits in January 2021. The Defendant also reported that her husband's

income from [REDACTED] had ended due to the pandemic. Based upon [REDACTED] wages from [REDACTED], he continued to work and received regular earnings throughout the first quarter of 2022.

By falsely reporting that her husband was no longer working with [REDACTED], the Defendant received SNAP benefits for which she was not entitled to receive. The Defendant's actions meet the definition of an Intentional Program Violation.

CONCLUSIONS OF LAW

- 1) The Defendant made a false statement when she applied for SNAP benefits in January 2021 by reporting that her husband was no longer working with [REDACTED].
- 2) The Defendant's husband continued to receive regular wages from [REDACTED] through the first quarter of 2022.
- 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, she will be excluded from participation in the Supplemental Nutrition Assistance Program for 12 months, effective March 1, 2023.

ENTERED this 31st day of January 2023.

Kristi Logan
Certified State Hearing Officer