



**STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
203 East Third Avenue  
Williamson, WV 25661**

**Earl Ray Tomblin  
Governor**

**Karen L. Bowling  
Cabinet Secretary**

March 7, 2016



RE: [REDACTED] v. WV DHHR  
ACTION NO.: 16-BOR-1115

Dear Mr. [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,

Stephen M. Baisden  
State Hearing Officer  
Member, State Board of Review

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

cc: Ellis Bryson, Criminal Investigator

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

[REDACTED],

**Defendant,**

**v.**

**Action Number: 16-BOR-1115**

**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 [REDACTED], requested by the Movant on January 15, 2016. 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 Section 273.16. The hearing was convened on February 25, 2016.

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

At the hearing, the Department appeared by Ellis Bryson, Criminal Investigator. The Defendant did not appear. The participant was sworn and the following documents were admitted into evidence.

**Movant's Exhibits:**

- M-1 Hearing Summary
- M-2 Earnings verification letter from Department to Defendant's employer, dated December 31, 2015, completed and returned by employer on February 7, 2001
- M-3 Earnings verification form from Defendant's employer to Department, dated January 4, 2016
- M-4 Benefit Payment History from the WV Bureau of Employment Programs computer system showing Unemployment Compensation Insurance (UCI) payments made to Defendant from December 16, 2015 to January 9, 2016
- M-5 Letter from Department to Defendant dated January 7, 2016

- M-6 Letter from Department to Defendant dated January 15, 2016
- M-7 Waiver of Administrative Disqualification Hearing form, blank
- M-8 West Virginia Income Maintenance Manual (WV IMM) Chapter 9, §9.1.A.2.h
- M-9 Code of Federal Regulations §273.16
- M-10 SNAP benefit application form and Rights and Responsibilities form, signed and dated by Defendant on May 28, 2015
- M-11 SNAP Mail-in Review Form, signed by Defendant on September 25, 2015

**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 Department's representative contended the Defendant committed an Intentional Program Violation and should be disqualified from SNAP for one year because he intentionally withheld the fact that he was working and receiving earned income, from June through December 2015. The Department's representative argued that because the Defendant did not report his employment information, his SNAP Assistance Group (AG) received \$1044 in benefits to which it was not entitled.
- 2) On May 28, 2015, the Defendant completed a SNAP benefit application (Exhibit M-10), wherein he reported he received no earned or unearned income.
- 3) On September 25, 2015, the Defendant completed a SNAP benefit mail-in review form (Exhibit M-11), again reporting he received no earned or unearned income.
- 4) The Defendant began working at an automobile dealership in the [REDACTED] WV, area on June 2, 2015 (Exhibit M-3). His employment ended on December 15, 2015 (Exhibit M-3).

**APPLICABLE POLICY**

West Virginia Income Maintenance Manual (WV IMM) Chapter 1.2.E 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.

WV IMM Chapter 2.2.B reads, "All SNAP AGs [Assistance Groups] must report changes related to eligibility and benefit amount at application and redetermination. SNAP AGs are subject to Limited Reporting requirements and the reporting requirements in this Section apply to recipient AGs only."

WV IMM Chapter 2.2.B.1 reads, “Once approved, all AGs must report when the total gross earned and unearned income of the AG and all other individuals who reside with the AG exceeds the AG’s gross income limit. This must be reported no later than the 10th calendar day of the month following the month in which the change occurs.

WV IMM Chapter 20.2 states that when an AG has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation or Intentional Program Violation claim. The claim is the difference between the allotment the client received and the allotment he should have received.

WV IMM Chapter 20.2.C.2 provides that once an IPV (Intentional Program Violation) is established, a disqualification penalty is imposed on the AG members who committed the IPV. The penalties are as follows: First Offense – one year disqualification; Second Offense – two years disqualification; Third Offense – permanent disqualification.

Pursuant to the Code of Federal Regulations 7 CFR Section 273.16, an Intentional Program Violation shall consist of a SNAP recipient having intentionally: 1. Made a false or misleading statement, or misrepresented, concealed or withheld facts; or 2. Committed any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system access device.

## **DISCUSSION**

During a SNAP application in May 2015 (Exhibit D-10), the Defendant did not report that he was working and receiving earned income. During a SNAP review in September 2015 (Exhibit D-11), the Defendant again did not report his employment.

The Department obtained information from the Defendant’s employer to the effect that he began working on June 2, 2015, after the May application (Exhibit D-3). However, the information from the employer indicated the Defendant’s income exceeded the gross income limit for his SNAP Assistance Group (AG).

SNAP recipients are obligated to report if their income exceeds the gross income level for their household at any time during the certification period for their receipt of SNAP benefits. At reviews and/or redeterminations, recipients are required to report “changes related to eligibility and benefit amount,” including employment information.

The Department provided clear and convincing evidence that the Defendant did not report that he was working and receiving earned income in June 2015, and did not report this income to the Department on a SNAP benefit review in September 2015.

### **CONCLUSIONS OF LAW**

- 1) Pursuant to the Code of Federal Regulations and the Common Chapters Manual, the Defendant made a false or misleading statement, or misrepresented, concealed or withheld facts, in order to receive SNAP benefits to which he was not legally entitled.
- 2) The Department presented clear and convincing evidence that Defendant committed an Intentional Program Violation by not reporting that he was working and receiving earned income during the period of June through September 2015, in violation of WV IMM §1.2.E. The Department must impose a disqualification penalty.
- 3) The disqualification for a first offense IPV is one year.

### **DECISION**

It is the ruling of the Hearing Officer that the Defendant committed an Intentional Program Violation. He will be disqualified from participating in SNAP for one year, beginning April 1, 2016.

**ENTERED this 7<sup>th</sup> Day of March 2016.**

---

**Stephen M. Baisden  
State Hearing Officer**