



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

July 27, 2016



RE: [REDACTED] v. WVDHHR
ACTION NO.: 16-BOR-1829

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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

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

cc: Rusty Udy, WVDHHR

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

[REDACTED],

Defendant,

v.

Action Number: 16-BOR-1829

**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 May 2, 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 June 29, 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 (IPV) and should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Department appeared by Rusty Udy, Repayment Investigator, WVDHHR. The Defendant failed to appear.

All participants were sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- | | |
|-----|--|
| M-1 | ADH Hearing Summary |
| M-2 | Food Stamp Claim Determinations for period of February 2014 to November 2015 |
| M-3 | Food Stamp Claim Calculation Sheet |
| M-4 | SNAP Issuance History-Disbursement |
| M-5 | Food Stamp Allotment Determination |
| M-6 | Non-Financial Eligibility Determination |
| M-7 | Case Members History |
| M-8 | Case Comments for the period of February 6, 2014 to June 1, 2016 |

M-9	Employee Wage Data
M-10	Supplemental Nutrition Assistance Program (SNAP) redetermination and/or application forms signed by Defendant on February 6, 2014, July 31, 2014, and June 9, 2015
M-11	Advance Notice of Administrative Disqualification Hearing Waiver dated April 18, 2016, and Waiver of Administrative Disqualification Hearing
M-12	West Virginia Income Maintenance Manual Chapters 1.2.E, 20.1 and 20.2
M-13	Code of Federal Regulations Section 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) A request for an Administrative Disqualification Hearing was received by the Board of Review from the West Virginia Department of Health and Human Resources, hereinafter Movant, on May 2, 2016. The Movant contends that the Defendant has committed an Intentional Program Violation (IPV) and is recommending that the Defendant be disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, for a period of 12 months.
- 2) Notification of the June 29, 2016, hearing was mailed to the Defendant on or about May 18, 2016, via First Class U.S. Mail.
- 3) The hearing convened as scheduled at 10 a.m., and as of 10:15 a.m., the Defendant failed to appear. As set forth in the Code of Federal Regulations found at §7 CFR 273.16 (e) (4), and the West Virginia Department of Health and Human Resources Common Chapters Manual Chapter 740.20, the hearing was conducted without the Defendant in attendance.
- 4) Rusty Udy, Repayment Investigator for the Movant, testified that the Defendant completed a SNAP review on February 6, 2014 (M-10), and reported that he had no income. He subsequently completed SNAP redeterminations/applications on July 31, 2014, and June 9, 2015 (M-10), again reporting zero income. On all occasions, he signed Rights and Responsibilities, certifying that the information he had provided to the Movant was true and correct.
- 5) The Movant received a state wage match alert in November 2015, indicating that the Defendant had been employed by [REDACTED] and the [REDACTED] (M-9). The Investigations and Fraud Management Unit verified that the Defendant had received income in 2014 from both employers, and from [REDACTED] only in 2015.

- 6) As a result of the Defendant's failure to report his income, he received \$3,368 in SNAP benefits to which he was not entitled for the period of February 2014- January 2015, and June 2015 to November 2015 (M-2, M-3, M-4 and M-5).

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 1.2.E (M-12) 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 Chapter 10.4.C.3 states that monthly SNAP allotments are calculated based on countable household income and the number of individuals in the Assistance Group.

West Virginia Income Maintenance Manual Chapter 20.2 (M-12) states that when an Assistance Group (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.

West Virginia Income Maintenance Manual Chapter 20.2(C)(2) (M-12) 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: (Chapter 9.1, A, 2, h) 1st Offense: 1 year (Disqualification); 2nd Offense: 2 years (Disqualification); 3rd Offense: Permanent.

DISCUSSION

Evidence demonstrates that the Defendant reported zero income to the Movant during SNAP reviews/applications in 2014 and 2015 when he clearly had earned income from two different sources during that time period. As a result, the Defendant committed an Intentional Program Violation.

CONCLUSIONS OF LAW

The Movant acted correctly in proposing the Defendant's disqualification from the SNAP based on the commission of an Intentional Program Violation. The one-year disqualification period will begin effective September 1, 2016.

DECISION

The Movant's proposal to apply a one (1)-year SNAP benefit disqualification is **upheld**.

ENTERED this 27th Day of July 2016.

**Pamela L. Hinzman
State Hearing Officer**