



**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**

September 26, 2016

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-2285

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,

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

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

cc: Juna Woodall, Repayment Investigator

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

████████████████████,

Defendant,

v.

Action Number: 16-BOR-2285

**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 July 18, 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 September 22, 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 Juna Woodall, Repayment Investigator. The Defendant did not appear. The participant was sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 Code of Federal Regulations §273.16
- M-2 Form ES-FS-5, Food Stamp (SNAP) Claim Determination
- M-3 SNAP mail-in review form, signed by Defendant, and case recordings dated February 27, 2014
- M-4 Form IG-IFM-5b, Letter from Department to Defendant's employer, dated March 2, 2015, completed by employer on March 11, 2015, and returned on March 16, 2015
- M-5 West Virginia Income Maintenance Manual (WV IMM) Chapter 1, §1.2.E
- M-6 WV IMM Chapter 20, §20.2
- M-7 WV IMM Chapter 20, §20.6

M-8 Copy of IG-IFM-ADH-waiver, Waiver of Administrative Disqualification Hearing form, and IG-IFM-ADH-Ltr, Notice of Intent to Disqualify form, sent to Defendant on July 8, 2016

Defendant's Exhibits

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence, 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 January through July 2014. The Department's representative argued that because the Defendant did not report this employment information, his SNAP Assistance Group (AG) received \$848 in benefits to which it was not entitled.
- 2) In January 2014, the Defendant completed a SNAP mail-in review wherein he reported that there was no earned or unearned income in his SNAP AG (Exhibit M-3).
- 3) The Department's representative sent to the Defendant's employer, [REDACTED] an employment data form (Exhibit M-4), asking the employer to provide certain information such as hire date and rate of pay. The employer returned the form on March 16, 2015, confirming that the Defendant had started working on December 29, 2013, and worked until July 28, 2014.

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."

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 review in January 2014 (Exhibit M-3), the Defendant did not report that he was working and receiving earned income.

The Department obtained information (Exhibit M-4) from the Defendant's employer confirming that he began working on December 29, 2013, and was still working in January 2014, when he completed a SNAP benefit review.

SNAP recipients are obligated to report "changes related to eligibility and benefit amount," including employment information, at reviews and redeterminations, according to the West Virginia Income Maintenance Manual, Chapter 2, §2.2.B.

The Department provided clear and convincing evidence that the Defendant intentionally withheld information that he was working and receiving earned income in January 2014, in order to obtain more SNAP benefits than he was entitled to receive.

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 the Defendant committed an Intentional Program Violation by not reporting he was working and receiving earned income during the period of January through July 2014, 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 November 1, 2016.

ENTERED this 26th Day of September 2016.

**Stephen M. Baisden
State Hearing Officer**