



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

October 25, 2016

[REDACTED]  
[REDACTED]  
[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 16-BOR-2408

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-2408**

**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 29, 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 October 20, 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 Form IG-IFM-5b, Letter from Department to ██████████, dated March 20, 2015, completed on March 27, 2015, and returned on April 1, 2015
- M-4 SNAP mail-in review form, signed and dated by Defendant on November 17, 2013
- M-5 Form IG-IFM-5b, Letter from Department to ██████████, dated March 20, 2015, completed on March 23, 2015, and returned on April 3, 2015
- M-6 SNAP mail-in review form, dated September 15, 2014

- M-7 SNAP mail-in review form, signed and dated by Defendant on September 17, 2015
- M-8 SNAP Case Recordings, dated December 23, 2013 through February 22, 2016
- M-9 West Virginia Income Maintenance Manual (WV IMM) Chapter 1, §1.2.E
- M-10 WV IMM Chapter 20, §20.2
- M-11 WV IMM Chapter 20, §20.6
- M-12 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 20, 2016

**Defendant's Exhibits**

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence during 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 his wife was working and receiving earned income, from January 2014 through February 2016. The Department's representative argued that because the Defendant did not report this employment information, his SNAP Assistance Group (AG) received \$5384 in benefits to which it was not entitled.
- 2) In November 2013, the Defendant completed a SNAP mail-in review wherein he reported that there was no earned income in his SNAP AG (Exhibit M-4).
- 3) In September 2014, the Defendant completed another SNAP mail-in review, wherein he reported again that there was no earned income in his SNAP AG (Exhibit M-6).
- 4) In September 2015, the Defendant completed another SNAP mail-in review, wherein he reported again that there was no earned income in his SNAP AG (Exhibit M-7).
- 5) On October 7, 2014, a worker entered a written recording into the Defendant's SNAP case record (Exhibit M-8, page 6) indicating he or she found by checking the computer system for the WV Bureau of Child Support Enforcement that the Defendant's wife was working for [REDACTED].
- 6) On March 20, 2015, an investigator from the WV DHHR, Investigations and Fraud Management (IFM) unit, sent an employment verification form (Exhibit M-3) to [REDACTED]. [REDACTED] returned the form on April 1, 2015, and confirmed that the Defendant's spouse worked there from June 9, 2015 through October 17, 2015.

- 7) On March 20, 2015, the WV DHHR, IFM investigator, sent an employment verification form (Exhibit M-5) to [REDACTED]. [REDACTED] returned the form on April 3, 2015, and confirmed that the Defendant's spouse worked there beginning August 12, 2013. According to the form, she was still employed there at the time the form was completed.

### **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 SNAP reviews from November 2013 (Exhibit M-4), September 2014 (Exhibit M-6) and September 2015 (Exhibit M-7) the Defendant did not report that his spouse was working and receiving earned income. The only income he reported during these reviews was his Social Security Disability, Supplemental Security Insurance (SSI), and a Housing and Urban Development (HUD) utility allowance for the household.

The Department obtained information (Exhibit M-4) from one of the spouse's employers, [REDACTED], confirming that she began working on June 9, 2014, and quit on October 17,

2014. The Department also obtained information from a second employer of the spouse, [REDACTED] confirming she began working on August 12, 2013, and was still working there as of April 3, 2015, when the employer provided the information.

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 indicating his spouse was working and receiving earned income from January 2014 through February 2016, in order to obtain more SNAP benefits than his assistance group 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 his assistance group was not entitled.
- 2) The Department presented clear and convincing evidence that the Defendant committed an Intentional Program Violation by not reporting his spouse was working and receiving earned income during the period of January 2014 through February 2016, 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 December 1, 2016.

**ENTERED this 25<sup>th</sup> Day of October 2016.**

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**Stephen M. Baisden  
State Hearing Officer**