



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
1400 Virginia Street
Oak Hill, WV 25901

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

October 26, 2016

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-2622

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
State Hearing Officer
Member, State Board of Review

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

cc: Rusty Udy, Fayette County DHHR

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

██████████,

Defendant,

v.

Action Number: 16-BOR-2622

**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 September 6, 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 §273.16. The hearing was convened on October 11, 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 should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Movant appeared by Rusty Udy, Repayment Investigator. The Defendant failed to appear. The Movant's representative was sworn and the following documents were admitted into evidence.

Movant's Exhibits:

M-1	Hearing Summary
M-2	SNAP Claim Determination Forms
M-3	SNAP Claim Calculation Sheets
M-4	SNAP Issuance History-Disbursement Screen Prints
M-5	SNAP Claim Allotment Determination Screen Prints
M-6	Non-Financial Eligibility Determination Screen Prints
M-7	Case Members History Screen Print
M-8	Case Comments from November 2012 through June 2016

M-9	Employee Wage Data Screen Print
M-10	inROADS SNAP Application submitted January 20, 2014
M-11	Advance Notice of Administrative Disqualification Hearing Waiver dated August 23, 2016
M-12	West Virginia Income Maintenance Manual §§1.2(E), 10.3(DD), and 20.2
M-13	Code of Federal Regulations – Title 7 §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 by falsely reporting her 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 September 8, 2016. The Defendant failed to appear for the hearing or provide good cause for her failure to do so. In accordance to 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 September 20, 2013. She reported (M-8) that she was the only member of her Assistance Group (AG) and that she had no income. SNAP benefits were approved based on the information provided.
- 4) The Defendant completed a SNAP redetermination online via inROADS (M-10) on January 20, 2014. The Defendant reported no income. SNAP benefits were recertified based on the information provided.
- 5) The Defendant completed a SNAP redetermination telephone interview on August 22, 2014. She reported (M-8) no income. SNAP benefits were recertified based on the information provided.
- 6) The Movant received information (M-9) through the Bureau for Employment Programs data exchange showing wages for the Defendant from [REDACTED] beginning the fourth quarter of 2013 through the first quarter of 2016.
- 7) Based on the wage data received from the Bureau for Employment Programs, the Defendant's income from [REDACTED] exceeded the allowable limit for the Defendant to receive SNAP benefits.

APPLICABLE POLICY

Code of Federal Regulations, 7 CFR §273.16, establishes that an individual making a false or misleading statement, or misrepresenting, concealing or withholding facts, violating the Food Stamp Program, 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 §1.2E 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. Failure to fulfill this obligation may result in one or more of the following actions: denial of the application, closure of the active AG, removal of the individual from the AG, repayment of benefits, and/or a reduction in benefits.

West Virginia Income Maintenance Manual §20(C)(2) defines an IPV and establishes that IPV's include: making false or misleading statements, misrepresentations, 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. Once an IPV has been established, a disqualification period must be imposed on the Assistance Group (AG) member who committed the violation.

West Virginia Income Maintenance Manual §9.1A(2) sets forth the penalties for individuals found guilty of an IPV as follows: First Offense, twelve (12) month disqualification; Second Offense, twenty-four (24) month disqualification; Third Offense, permanent disqualification.

DISCUSSION

Federal regulations define an Intentional Program Violation as making a false statement related to the acquisition of SNAP benefits.

The Defendant reported that she had no income at her January 2014 and August 2014 SNAP redeterminations.

The Movant provided verification that the Defendant was employed and receiving regular income prior to and during the time of the Defendant's SNAP redeterminations. The Defendant made a false statement at two (2) SNAP redeterminations regarding her income, which meets the definition of an Intentional Program Violation.

CONCLUSIONS OF LAW

- 1) The Defendant made false statements at her January 2014 and August 2014 SNAP redeterminations by reporting that she was not receiving any income.

- 2) The Movant provided irrefutable evidence that the Defendant was employed and receiving earnings.
- 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 twelve (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 program for twelve (12) months, effective December 2016.

ENTERED this 26th day of October 2016

**Kristi Logan
State Hearing Officer**

