



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
P.O. Box 1247  
Martinsburg, WV 25402

Jim Justice  
Governor

Bill J. Crouch  
Cabinet Secretary

September 13, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 17-BOR-2113

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,

Lori Woodward  
State Hearing Officer  
Member, State Board of Review

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

cc: Addison Hamilton, [REDACTED] Co. WV DHHR

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

██████████,

**Defendant,**

v.

**ACTION NO.: 17-BOR-2113**

**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 17, 2017. 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 August 30, 2017.

The matter before the Hearing Officer arises from a request by the Movant for a determination as to whether the Defendant has committed an Intentional Program Violation (IPV) and therefore should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Movant appeared by Addison Hamilton, Criminal Investigator, Investigations and Fraud Management. Defendant failed to appear resulting in the hearing being held in the Defendant's absence. Mr. Hamilton was sworn and the following documents were admitted into evidence:

**Movant's Exhibits:**

- M-1 West Virginia Income Maintenance Manual (IMM) §1.2.E
- M-2 7 CFR §273.16 (excerpt)
- M-3 Combined Application and Review Form for Financial, Medical, and Food Stamps, and Rights & Responsibilities signed and dated February 8, 2008
- M-4 Combined Application and Review Form for Financial, Medical, and Food Stamps, and Rights & Responsibilities signed and dated September 8, 2008
- M-5 Combined Application and Review Form for Financial, Medical, and Supplemental Nutrition Assistance Program, and Rights & Responsibilities signed and dated February 27, 2009

- M-6 Combined Application and Review Form for Financial, Medical, and Supplemental Nutrition Assistance Program, and Rights & Responsibilities signed and dated July 30, 2009
- M-7 Combined Application and Review Form for Financial, Medical, and Supplemental Nutrition Assistance Program, and Rights & Responsibilities signed and dated March 15, 2010
- M-8 Supplemental Nutrition Assistance Program (SNAP) CSLE, signed and dated July 23, 2010
- M-9 Supplemental Nutrition Assistance Program (SNAP) CSLE, signed and dated January 29, 2011
- M-10 Supplemental Nutrition Assistance Program (SNAP) CSLE, signed and dated July 23, 2011
- M-11 Combined Application and Review Form for Financial, Medical, and Supplemental Nutrition Assistance Program, and Rights & Responsibilities signed and dated January 13, 2012
- M-12 Supplemental Nutrition Assistance Program (SNAP) CSLE, signed and dated January 26, 2012
- M-13 Employment Verification Form for [REDACTED] from [REDACTED]  
[REDACTED]
- M-14 Employment Verification Form for [REDACTED] from [REDACTED]
- M-15 BEP Wage Details Screen Prints for [REDACTED] for [REDACTED]
- M-16 Claimant Profile Data and Benefit Payment History Screen Prints for [REDACTED]  
[REDACTED]
- M-17 IMM §20.6 (excerpt)
- M-18 IMM §20.2 (excerpt)

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of the witness and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

### **FINDINGS OF FACT**

- 1) The Defendant was a recipient of SNAP benefits.
- 2) The Investigations and Fraud Management (IFM) unit of the West Virginia Department of Health and Human Resources (DHHR) alleged an act of IPV by the Defendant withholding information about the earned and unearned income in her assistance group (AG) resulting in an over-issuance of SNAP benefits from March 2008 through August 2012.
- 3) The Defendant completed SNAP applications/reviews on February 8, 2008 (Exhibit M-3), September 8, 2008 (Exhibit M-4), February 27, 2009 (Exhibit M-5), July 30, 2009 (Exhibit M-6), March 15, 2010 (Exhibit M-7), July 23, 2010 (Exhibit M-8), January 29, 2011 (Exhibit M-9), July 23, 2011 (Exhibit M-10), January 13, 2012 (Exhibit M-11) and January 26, 2012 (Exhibit M-12) claiming zero income in her household.

- 4) The Defendant signed and dated all the applications/reviews from February 2008 through January 2012 certifying that all the information was true and correct. (Exhibits M-3 through M-11)
- 5) The Defendant's adult son [REDACTED] was included in her SNAP applications dated February 27, 2009 (Exhibit M-5) and July 30, 2009 (Exhibit M-6). [REDACTED] had earned income from [REDACTED] from January 2009 to December 2009. This income was unreported by the Defendant. (Exhibit M-13)
- 6) The Movant received information from the BEP (Bureau of Employment Programs) Employee Wage Data exchange that Defendant's other adult son, [REDACTED], who was included in her AG on the SNAP review form dated July 23, 2011 (Exhibit M-10), had earned income from [REDACTED] in the third quarter of 2011. This income was not reported by the Defendant. (Exhibit M-15)
- 7) The Defendant's husband, [REDACTED] (also known as "[REDACTED]"), was employed with [REDACTED]. He received earned income from his employment with [REDACTED]. This income was never reported by the Defendant. (Exhibits M-14)
- 8) The Defendant's husband also received Unemployment Compensation Income (UCI) from April 2009 to March 2010 and March 2011 and February 2012 which was never reported by the Defendant.
- 9) The Defendant's act of intentionally withholding the income in her AG resulted in an over-issuance of SNAP benefits during the period of March 2008 through August 2012.

### **APPLICABLE POLICY**

Pursuant to the Code of Federal Regulations 7 CFR §273.16, an Intentional Program Violation consists of 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.

IMM §20.2.C 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 AG member who committed the violation.

IMM §20.2.C.2 requires that once an IPV has been established, a disqualification period must be imposed on the AG member(s) who committed the violation.

IMM §9.1 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 IPV as making a false statement related to the acquisition of SNAP benefits. The Defendant reported that there was no income in her household on all her SNAP applications and reviews from February 2008 to August 2012.

The Movant provided verification that the Defendant's husband had been working since October 2007 and/or receiving UCI during the aforementioned SNAP applications/reviews. Additionally, the Defendant did not report the earned income of her son [REDACTED] on her SNAP applications of February 27, 2009 and July 30, 2009 when he was included in her AG.

The Defendant did not appear for the hearing, and as such could not dispute facts presented by the Movant.

The Defendant clearly made false statements at her SNAP applications and reviews regarding her household income, which meets the definition of an IPV. The Movant established by clear and convincing evidence the intent of the Defendant to provide false statements to receive SNAP benefits for which she would not have otherwise been entitled. By withholding the reporting of household income, the Defendant caused an over-issuance of SNAP benefits.

### **CONCLUSIONS OF LAW**

- 1) The Defendant's intentional false statements and withholding of information meet the definition of an Intentional Program Violation.
- 2) Having committed an Intentional Program Violation and this being the Defendant's first offense, the Defendant is subject to a 12-month disqualification from SNAP.

### **DECISION**

It is the ruling of the State Hearing Officer that the Defendant committed an Intentional Program Violation. The Defendant will be disqualified from participation in SNAP for a period of twelve (12) months to begin effective October 1, 2017.

ENTERED this 13<sup>th</sup> day of September 2017.

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**Lori Woodward, State Hearing Officer**