



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

**Jim Justice
Governor**

**Bill J. Crouch
Cabinet Secretary**

January 26, 2017

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 16-BOR-3085

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: Debra Carey, WVDHHR

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

██████████,

Defendant,

v.

Action Number: 16-BOR-3085

**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 November 30, 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 January 11, 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 should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Movant appeared by Debra Carey, 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 Summary
M-2	Benefit Recovery Referral
M-3	SNAP application signed by Defendant on April 28, 2015, and application signed during office interview on April 30, 2015
M-4	Case Comments
M-5	Case Members History
M-6	Facsimile transmission from ██████████ Department of Social and Health Services dated June 8, 2015
M-7	Food Stamp Allotment Determination
M-8	SNAP Issuance History- Disbursement

M-9	Food Stamp Claim Determination for period of April-May 2015
M-10	Appointment letter dated November 4, 2015
M-11	Advance Notice of Administrative Disqualification Hearing Waiver dated November 14, 2016 and Waiver of Administrative Disqualification Hearing
M-12	West Virginia Income Maintenance Manual Chapter 1.2
M-13	West Virginia Income Maintenance Manual Chapters 20.1 and 20.2
M-14	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 November 30, 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 January 11, 2017, hearing was mailed to the Defendant on or about December 1, 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 call in for the telephone hearing. 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) Debra Carey, Repayment Investigator for the Movant, testified that the Defendant applied for SNAP benefits in the State of West Virginia, signing application forms on April 28, 2015 and April 30, 2015 (M-3). At the time of application, he reported that his fiancé, [REDACTED], and their two children were residing in his household.
- 5) Case Comments (M-4) dated May 1, 2015, state that the Defendant told the Department worker that he had moved to West Virginia from the [REDACTED], and that his family had received benefits in [REDACTED] through March 2015. He indicated that the case in [REDACTED] had been closed. The Defendant reported that he would have zero income in May 2015, and the application was processed as expedited service for May 2015, with a partial issuance approved for April 2015.

- 6) The Movant later determined that Ms. [REDACTED] SNAP benefits in the [REDACTED] [REDACTED] closed effective May 31, 2015. Therefore, the family received simultaneous SNAP benefits in West Virginia and [REDACTED] in April and May 2015 (M-6, M-7 and M-8). As a result, the Defendant's Assistance Group received \$713 in SNAP benefits to which it was not entitled (see Exhibit M-9).
- 7) On Exhibit M-3, the Defendant certified that he had read the SNAP Rights and Responsibilities and provided accurate information to the Movant. One of these statements indicates that individuals who make false statements or misrepresent residence to receive duplicate SNAP benefits will be disqualified from the SNAP.

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 8.6 states that an individual may not receive SNAP benefits concurrently in more than one state.

West Virginia Income Maintenance Manual Chapter 20.2.C.2 (M-13) states that Intentional Program Violations for the SNAP 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.

Code of Federal Regulations Section 273.16.c.2 (M-14) states that an Intentional Program Violation includes violating regulations concerning the use, presentation, transfer, acquisition, receipt, possession or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system (access device).

West Virginia Income Maintenance Manual Chapter 20.2(C)(2) (M-13) 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

Federal regulations specify that an individual may not receive SNAP benefits concurrently from different states. An Intentional Program Violation includes violating regulations concerning the use, presentation, transfer, acquisition, receipt, possession or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system (access device).

The Defendant applied for SNAP benefits in West Virginia in April 2015. He reported that he had been receiving SNAP in the [REDACTED], but that the case was closed in March 2015. As the [REDACTED] provided verification that Ms. [REDACTED] case was open in that state through May 2015, the Defendant received duplicate benefits for April and May 2015, and the Movant has correctly pursued the application of an Intentional Program Violation penalty to his SNAP benefits.

CONCLUSION 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 March 2017.

DECISION

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

ENTERED this 26th Day of January 2017.

Pamela L. Hinzman
State Hearing Officer