



**STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL**

**Bill J. Crouch  
Cabinet Secretary**

**BOARD OF REVIEW  
Raleigh District DHHR  
407 Neville Street  
Beckley, WV 25801**

**M. Katherine Lawson  
Inspector General**

August 8, 2018



RE: [REDACTED] v. WV DHHR  
ACTION NO.: 18-BOR-1872

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,

Kristi Logan  
State Hearing Officer  
Member, State Board of Review

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

cc: Robin Taylor, [REDACTED] County DHHR

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

██████████,

**Defendant,**

v.

**Action Number: 18-BOR-1872**

**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 June 14, 2018. 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 July 24, 2018.

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 and should therefore be disqualified from the Supplemental Nutrition Assistance Program (SNAP).

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

**Movant's Exhibits:**

- |      |   |
|------|---|
| M-1  | Application for Benefits dated January 20, 2017                       |
| M-2  | National Criminal Information Center Database Criminal History Record |
| M-3  | West Virginia Income Maintenance Manual §1.2.E                        |
| M-4  | West Virginia Income Maintenance Manual §3.2.1.B.4                    |
| M-5  | West Virginia Income Maintenance Manual §20.2                         |
| M-6  | Code of Federal Regulations – 7 CFR §273.16                           |
| M-7  | SNAP Claim Determination Form   |
| M-8  | SNAP Issuance History-Disbursement Screen Print                       |
| M-9  | Non-Financial Eligibility Determination Screen Prints                 |
| M-10 | Case Members History Screen Print                                     |

- M-11 Case Comments from January 2017 through March 2018
- M-12 Hearing Summary
- M-13 Advance Notice of Administrative Disqualification Hearing Waiver dated June 1, 2018
- M-14 Waiver of Administrative Disqualification Hearing (unsigned)

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 (IPV) by giving false information regarding a felony drug conviction.
- 2) The Defendant was notified of the hearing by scheduling order mailed on June 19, 2018. The Defendant failed to appear for the hearing or provide good cause for his 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 January 20, 2017. The Defendant answered "no" to the question "Have you or anyone in your household been convicted of a felony under Federal or State law for possession, use or distribution of a controlled substance (felony drug conviction) after August 22, 1996?" (Exhibit M-1)
- 4) During the application interview with the Defendant on January 20, 2017, the Defendant reported that he had been incarcerated in [REDACTED] but denied that he had a felony drug conviction (Exhibit M-11).
- 5) SNAP benefits were approved based on the information provided by the Defendant.
- 6) The Defendant completed a telephone interview on December 27, 2017 for a recertification of his SNAP benefits. He reported that he had been convicted of a drug felony in 2005 (Exhibit M-11).
- 7) The Movant verified through the National Criminal Information Center (NCIC) database that the Defendant was convicted of a felony offense for the possession of cocaine in [REDACTED] on January 18, 2007 (Exhibit M-2).
- 8) A review of the Defendant's criminal record found that the drug conviction that occurred in 2005 was a misdemeanor (Exhibit M-2).

## **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 (SNAP), 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 §1.2.4 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

West Virginia Income Maintenance Manual §11.2.3.B states that IPV's include making false or misleading statements, misrepresenting facts, 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. The client(s) who is found to have committed an IPV is ineligible to participate in the program for a specified time, depending on the number of offenses committed.

West Virginia Income Maintenance Manual §3.2.1.B.5 states that persons who have been found guilty of an IPV are disqualified as follows: First offense - one year disqualification; second offense - two year disqualification; and third offense - permanent disqualification.

West Virginia Income Maintenance Manual §3.2.1.B.3 states individuals convicted of an offense involving an element of the possession, use or distribution of a controlled substance as defined by Section 802 (6) of the Controlled Substance Act are permanently excluded from participation in SNAP.

## **DISCUSSION**

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

The Defendant made a false statement on his January 2017 application for SNAP benefits by denying that he had a felony drug conviction. Pursuant to federal regulations, individuals convicted of a felony drug offense related to the possession, use or distribution of a controlled substance are permanently disqualified from receiving SNAP benefits. The Defendant received SNAP benefits for which he was ineligible to receive for a year based on his false statement regarding his felony drug conviction on his SNAP application.

The Defendant's actions meet the definition of an Intentional Program Violation.

### **CONCLUSIONS OF LAW**

- 1) The Defendant made a false statement on his January 2017 SNAP application by denying that he had a felony drug conviction.
- 2) The Movant provided evidence that the Defendant was convicted of a felony offense for the possession of a controlled substance in January 2007.
- 3) The act of making a false statement to obtain SNAP benefits constitutes an Intentional Program Violation.
- 4) The Defendant committed an Intentional Program Violation.

### **DECISION**

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation. Under the law, the Defendant is already permanently disqualified from SNAP due to his status as a convicted drug felon, therefore the 12-month disqualification will be served concurrently beginning September 2018 through August 2019, at which time the Defendant will not resume eligibility due to his drug felony conviction.

**ENTERED this 8<sup>th</sup> day of August 2018**

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**Kristi Logan  
State Hearing Officer**