



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

**Bill J. Crouch**  
Cabinet Secretary

**BOARD OF REVIEW  
Board of Review  
416 Adams Street Suite 307  
Fairmont, WV 26554  
304-368-4420 ext. 79326**

**M. Katherine Lawson**  
Inspector General

August 21, 2018



RE: [REDACTED] v. WV DHHR  
ACTION NO.: 18-BOR-1907

Dear Ms. [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,

State Hearing Officer  
Member, State Board of Review

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

cc: April Stuckey, Investigations and Fraud Management

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

██████████,

**Defendant,**

v.

**Action Number: 18-BOR-1907**

**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 22, 2018. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' (DHHR) Common Chapters Manual and Federal Regulations at 7 CFR §273.16. The hearing was convened on August 2, 2018.

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 12 months.

At the hearing, the Department appeared by April Stuckey, Investigations and Fraud Management (IFM). The Defendant failed to appear. The witness was sworn and the following documents were admitted into evidence.

**Movant's Exhibits:**

- M-1      Benefit Recovery Referral (BVRF), dated November 13, 2017; eRAPIDS Case Summary, printed November 8, 2017
- M-2      West Virginia Income Maintenance Manual (WVIMM) §1.2.4 and §1.2.5
- M-3      DHHR Snap Claim Determination, dated December 2015 through November 2017; BVRF, dated November 13, 2017; SNAP Issuance Disbursement History, dated June 3, 2015 through May 3, 2018; Food Stamp Allotment Determinations, dated October 26, 2015 through August 25, 2018; Employee Pay History Report, dated August 25, 2015 through November 7, 2017; Employment Data, dated November 14, 2017; Employee Wage Data, 2014 through 2018; SNAP claim calculations, dated November 2015 through November 2017
- M-4      Code of Federal Regulations (January 2008) 7CFR §273.16

- M-5 IFM Notice, dated November 13, 2017; Wage History, dated November 14, 2017; Employment Data, dated November 14, 2017; Employee Pay History, dated August 25, 2015 through November 7, 2017
- M-6 SNAP Contact Form, dated October 16, 2015
- M-7 SNAP Review Form and Rights and Responsibilities, dated April 11, 2016
- M-8 SNAP Contact Form, dated October 24, 2016
- M-9 SNAP Review Form and Rights and Responsibilities, dated April 17, 2017
- M-10 SNAP Contact Form, dated October 23, 2017
- M-11 IMM §11.6.1 and §11.6.2
- M-12 IFM Waiver of Administrative Disqualification Hearing, unsigned; IFM Advanced Notice of Administrative Disqualification Hearing Waiver
- M-13 ADH Hearing Summary

**Defendant's Exhibits:**

None

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 Defendant is a recipient of SNAP benefits. (Exhibit M-3)
- 2) On November 13, 2017, a BVRF was completed requesting investigation of the Defendant's receipt of SNAP benefits from December 1, 2015 through November 30, 2017, due to the Defendant's failure to report income. (Exhibits M-1 and M-3)
- 3) The Defendant was employed at [REDACTED] ([REDACTED]) from August 7, 2015 through November 14, 2017. (Exhibits M-3 and M-5)
- 4) On multiple occasions from October 26, 2015 through October 31, 2017, the Defendant signed SNAP Contact and Review forms denying that any household member was employed or had earned income. (Exhibits M-6 through M-10)
- 5) On each SNAP Contact and Review form, the Defendant signed that the information contained was true and correct to the best of her knowledge. (Exhibits M-6 through M-10)
- 6) On May 17, 2016 and May 2, 2017, the Defendant signed SNAP Rights and Responsibilities. (Exhibits M-7 and M-9)

## **APPLICABLE POLICY**

### **Code of Federal Regulations (January 2018) 7CFR §273.16(a)(1) provides in part:**

Administrative disqualification procedures or referral for prosecution action should be initiated by the State agency in cases in which the State agency has sufficient documentary evidence to substantiate that an individual has intentionally made one or more acts of intentional Program violation as defined in paragraph (c) of this section.

### **Code of Federal Regulations (January 2018) 7CFR §273.16(b)(1)(i) provides in part:**

Individuals found to have committed an intentional Program violation through an administrative disqualification hearing ... shall be ineligible to participate in the Supplemental Nutrition Assistance Program for a period of twelve months for the first intentional Program violation.

### **Code of Federal Regulations (January 2018) 7CFR §273.16(b)(13) provides in part:**

The disqualification period shall begin no later than the second month which follows the date the individual receives written notice of the disqualification. The disqualification period must continue uninterrupted until completed regardless of the eligibility of the disqualified individual's household.

### **Code of Federal Regulations (January 2018) 7CFR §273.16(c)(1) provides in part:**

An intentional program violation is defined as an individual having intentionally made a false or misleading statement, or misrepresented, concealed, or withheld facts.

### **Code of Federal Regulations (January 2018) 7CFR §273.16(e)(4) provides in part:**

If the household member or its representative cannot be located or fails to appear at a hearing initiated by the State agency without good cause, the hearing shall be conducted without the household member being represented. Even though the household member is not represented, the hearing official is required to carefully consider the evidence and determine if intentional Program violation was committed based on clear and convincing evidence

### **West Virginia Income Maintenance Manual (WVIMM) §1.2.4 Client Responsibility provides in part:**

The client's responsibility is to provide complete and accurate information about her circumstances so that the Worker can make a correct determination about her eligibility.

#### **WVIMM §4.3.1 Income Chart 1 provides in part:**

#29(j): Wages are counted as earned income for the SNAP program.

#### **DISCUSSION**

The Movant investigated the Defendant's receipt of SNAP benefits from December 1, 2015 through November 30, 2017. The Movant petitioned the Board of Review for an Administrative Disqualification Hearing (ADH) and requested that an Intentional Program Violation (IPV) be established, alleging the Defendant withheld information regarding her income. The Defendant was notified of the ADH scheduling and failed to appear. Pursuant to federal regulations, the hearing was held in the Defendant's absence.

The Movant had to prove that the Defendant intentionally made false or misleading statements, or misrepresented, concealed, or withheld facts about her income to obtain SNAP benefits. The evidence verified that the Defendant was employed at [REDACTED] from August 7, 2015 through November 14, 2017. The Defendant completed multiple SNAP Contact and Review forms October 26, 2015 through October 31, 2017 and failed to report her income and employment. The defendant affirmed by signing the forms that the information contained in her application and review documents was true and correct.

Pursuant to policy, the Defendant had a responsibility to provide complete and accurate information about her circumstances so that the Worker could make a correct determination about her SNAP eligibility. Policy requires that wages be reported so that the Worker can compare the Defendant's countable income to minimum income limits to determine benefit eligibility. The evidence demonstrated that the Defendant had multiple opportunities to report changes in her income; however, she intentionally withheld the information on her SNAP Contact and Review forms.

The Movant provided clear and convincing evidence that the Defendant committed an act of IPV to obtain SNAP benefits by intentionally making false or misleading statements, concealing, or withholding facts regarding her income and employment. Regulations require that individuals found to have committed an IPV through an ADH shall be ineligible to participate in SNAP for a penalty period. A first offense 12-month disqualification penalty should be imposed, beginning in accordance with timelines established in federal regulations.

#### **CONCLUSIONS OF LAW**

- 1) The Defendant was required to report her income so that the Movant could make a correct determination about her SNAP benefit eligibility.
- 2) The Defendant was employed at [REDACTED] from August 7, 2015 through November 14, 2017.

- 3) Multiple times October 26, 2015 through October 31, 2017, the Defendant signed SNAP Contact and Review forms denying that any household member was employed or had earned income
- 4) The Defendant committed an Intentional Program Violation (IPV) by intentionally making false or misleading statements, concealing, or withholding facts regarding her income and employment at [REDACTED].
- 5) The Defendant is ineligible to participate in SNAP for a 12-month disqualification penalty period.

### **DECISION**

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation and is subject to a 12-month disqualification penalty period, effective October 1, 2018.

**ENTERED this 21<sup>st</sup> day of August 2018.**

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**Tara B. Thompson  
State Hearing Officer**