



**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**

**Jolynn Marra
Interim Inspector General**

September 25, 2018



RE: [REDACTED] v. WV DHHR
ACTION NO.: 18-BOR-2101

Dear Ms. [REDACTED]

Enclosed is a copy of the AMENDED 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: Anisha Eye, [REDACTED] County DHHR

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

██████████,

Defendant,

v.

Action Number: 18-BOR-2101

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Movant.

AMDENDED 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 30, 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 September 4, 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) for twenty-four (24) months.

At the hearing, the Movant appeared by Anisha Eye, 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 Hearing Summary
- M-2 SNAP Claim Determination Forms
- M-3 SNAP Claim Calculations Sheets
- M-4 SNAP Allotment Determination Screen Prints
- M-5 Non-Financial Eligibility Determination Screen Prints
- M-6 SNAP Issuance History-Disbursement Screen Prints
- M-7 Case Members History Screen Prints
- M-8 Case Comments from December 2016 through May 2018
- M-9 SNAP 6 or 12-Month Contact Form dated June 2, 2017

- M-10 SNAP Change Reporting Form dated July 31, 2017
- M-11 Request for Replacement/Supplement of Food Purchases with SNAP dated April 18, 2018
- M-12 Statement from [REDACTED] received April 18, 2018
- M-13 Landlord Verification Form dated July 7, 2018
- M-14 SNAP Application received November 29, 2017 and Combined Application and Review Form dated November 29, 2017
- M-15 Waiver of Administrative Disqualification Hearing (blank copy)
- M-16 Advance Notice of Administrative Disqualification Hearing Waiver dated July 19, 2018
- M-17 West Virginia Income Maintenance Manual §§1.2.4, 11.2, and 11.6
- M-18 Code of Federal Regulations – 7 CFR §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 (IPV) by falsely reporting her shelter expense and requested that a twenty-four (24) month penalty be imposed against her.
- 2) The Defendant was notified of the hearing by scheduling order mailed on July 31, 2018. 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 was a recipient of SNAP benefits.
- 4) On July 31, 2017, the Defendant submitted a change form to the Movant reporting that she had moved to [REDACTED], and that her monthly rental expense was \$400 (Exhibit M-10).
- 5) The Defendant's statement of her new monthly rental amount was accepted and SNAP benefits increased based on the reported increase in her rent amount (Exhibits M-3, M-4 and M-8).
- 6) The Defendant completed a SNAP review on November 29, 2017, reporting no changes in her monthly rent amount (Exhibit M-8 and M-14).
- 7) The Movant verified with the Defendant's landlord for the [REDACTED] property that her monthly rental obligation has been \$300 since April 2017, although she has failed to pay any rent since residing there (Exhibit M-13).

- 8) The Defendant has one previous IPV offense.

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 §§4.4.2 and 4.4.2.B.7 states that certain items may be allowed as income deductions to arrive at an assistance group's (AG's) countable income for SNAP, (even if the payment is made from assets). To receive a deduction, the expense must:

- Not be an educational expense;
- Be billed or be due during the certification period in which the deduction is claimed;
- Be obligated to be met by the AG's own resources; and
- Be owed to an individual not included in the AG to receive a deduction.

When a client fails to report household expenses that would normally result in a deduction, the AG loses their entitlement to that deduction. They have a right to the expense, once it is reported and verified, if required by policy. states The Worker must allow the expense only if the AG is obligated to pay with the AG's excluded or non-excluded resources. There is no time limit during the certification period for deciding when an AG is no longer allowed a deduction for the bill. The AG is no longer allowed the deduction when the expense is no longer billed or is no longer due. An expense does not have to be paid to be a deduction.

DISCUSSION

Federal regulations define an Intentional Program Violation as making a false or misleading statement, misrepresenting facts, concealing or withholding information related to the acquisition of SNAP benefits.

The Defendant made a false statement by reporting that her monthly rental obligation was \$400 for the [REDACTED] residence, when the actual rental obligation was \$300 monthly. Although the Defendant is not required to pay the rental expense each month to receive the deduction, she is required to correctly report her expenses.

In reporting a higher rental obligation, the Defendant received a greater shelter deduction based on her false statement, thereby receiving more SNAP benefits than she was entitled to receive.

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

CONCLUSIONS OF LAW

- 1) The Defendant made false statements on the July 2017 change reporting form and the November 2017 SNAP review by claiming that her monthly rental obligation was \$400.
- 2) The Movant provided proof that the Defendant's monthly rental obligation for [REDACTED] has been \$300 since April 2017.
- 3) The act of making a false statement to obtain SNAP benefits constitutes an Intentional Program Violation.
- 4) The penalty for a second offense Intentional Program Violation is the exclusion from participation in SNAP for twenty-four (24) 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 second offense, she will be excluded from participation in the program for 24 months, effective November 1, 2018.

ENTERED this 25th day of September 2018

**Kristi Logan
State Hearing Officer**