



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
203 East Third Avenue
Williamson, WV 25661

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

January 16, 2018

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-2713

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,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

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

cc: Robin Taylor, Repayment Investigator

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

████████████████████,

Defendant,

v.

Action Number: 17-BOR-2713

**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 October 25, 2017. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' (WV DHHR) Common Chapters Manual and Federal Regulations at 7 CFR §273.16. The hearing was convened on January 3, 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 twelve months.

At the hearing, the Department appeared by Robin Taylor, Repayment Investigator. The Defendant did not appear. The participant was sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 Form IG-BR-29, Hearing Request Notification
- M-2 Form ES-FS-5, SNAP Claim Determination
- M-3 Form ES-FS-5a, Food Stamp (now SNAP) Claim Calculation Sheet
- M-4 Screen print from Defendant's SNAP case record listing SNAP issuance history for Defendant's household
- M-5 Screen print from Defendant's SNAP case record showing SNAP allotment determination calculations for Defendant's household
- M-6 Screen print from Defendant's SNAP case record listing Defendant's household members
- M-7 Screen print from Defendant's SNAP case record listing Defendant's household member history

- M-8 Case comments from Defendant's SNAP case record, from June 13, 2016, through July 10, 2017
- M-9 Employee Wage Data screen print from WV Bureau of Employment Programs (WV BEP)
- M-10 SNAP telephone review form, signed by Defendant
- M-11 Copy of IG-IFM-ADH-waiver, Waiver of Administrative Disqualification Hearing form, and IG-IFM-ADH-Ltr, Notice of Intent to Disqualify form, sent to Defendant on September 22, 2017
- M-12 West Virginia Income Maintenance Manual (WV IMM) Chapter 1, §1.2.E; Chapter 10, §10.3.DD; and Chapter 20, §20.2
- M-13 Code of Federal Regulations 7 CFR §273.16
- M-14 Form IG-IFM-Wage-History, Employment wage history form sent to [REDACTED], on August 16, 2017; returned completed by [REDACTED] on August 17, 2017

Defendant's Exhibits

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence during 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 Department's representative contended the Defendant committed an Intentional Program Violation and should be disqualified from SNAP for one year because she did not report on a December 2016 SNAP benefit review and a January 2017 Medicaid review that she had begun working in November 2016 and was receiving earned income.
- 2) In December 2016, the Defendant completed and submitted to the Department a SNAP telephone review form (Exhibit M-10). On "Section 6" of this form, a recipient is asked to report employment information for any person in the recipient's household. The Defendant did not list any earned income for her household in this section of the form.
- 3) The Defendant completed a Medicaid review on January 4, 2017, again reporting no earned income in her household (Exhibit M-8).
- 4) The Defendant began working for [REDACTED], on November 16, 2016, and worked until February 1, 2017 (Exhibit M-14).
- 5) The Department's representative asserted that because the Defendant did not report her earned income on her December 2016 SNAP benefit review, her SNAP assistance group (AG) received \$269 in benefits to which it was not entitled.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WV IMM) Chapter 1, §1.2.E states that it is the client's responsibility to provide information about his or her circumstances so the worker is able to make a correct decision about his or her eligibility.

WV IMM Chapter 20, §20.2 states that when an AG has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation or Intentional Program Violation claim. The claim is the difference between the allotment the client received and the allotment he or she should have received.

WV IMM Chapter 20, §20.2.C.2 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: First Offense – one-year disqualification; Second Offense – two-year disqualification; Third Offense – permanent disqualification.

WV IMM Chapter 20, §20.6.A reads as follows in part, "A willfully false statement is one that is deliberately given, with the intent that it be accepted as true, and with the knowledge that it is false . . . it is not essential that an affirmative representation be made. Misrepresentation also may be the suppression of what is true, as well as the representation of what is false."

Pursuant to the Code of Federal Regulations 7 CFR §273.16, an Intentional Program Violation shall consist of a SNAP recipient 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 or access device.

DISCUSSION

The Defendant failed to report on a SNAP telephone review form submitted in December 2016 and on a Medicaid review in January 2017 that she was working and receiving earned income. She received SNAP benefits for January and February 2017 based on this incorrect information.

The Department's representative submitted as evidence the December 2016 SNAP review form (Exhibit M-10). Section 6 of this form (Exhibit M-10, page 5) asks the recipient to list any earned income in the assistance group. The Defendant listed no employment in this section of the form. The Department's representative also submitted a collection of case comments (Exhibit M-8), brief narratives concerning her SNAP case maintenance. A case comment from January 4, 2017, indicates the Defendant completed a Medicaid review on January 4, 2017, wherein she again reported no income in her household. These recordings state that after a periodic review of the Defendant's benefits in June 2017, a worker at the WV DHHR, [REDACTED] County Office, checked the Defendant's information on Data Exchange, an online site matching data from various state and federal agencies with DHHR clients through their Social Security numbers and

other demographic data. The recording (Exhibit M-8, page 2) indicates the worker found employment data on the Exchange.

The Department's representative also submitted as evidence an Employment Wage History form sent from the Department to the employer, [REDACTED], on August 16, 2017 (Exhibit M-14). The employer returned the form on August 17, 2017, reporting that the Defendant worked at [REDACTED] from November 16, 2016 to February 1, 2017.

The Department proved by clear and convincing evidence that the Defendant committed an Intentional Program Violation (IPV) by not reporting her earned income on a SNAP review from December 2016 and a Medicaid review from January 2017.

CONCLUSIONS OF LAW

- 1) Pursuant to the Code of Federal Regulations 7 CFR §273.16, the Department provided clear and convincing evidence that the Defendant made false or misleading statements, or misrepresented, concealed or withheld facts, in order to receive SNAP benefits to which her assistance group was not entitled.
- 2) The Department presented clear and convincing evidence the Defendant committed an Intentional Program Violation by not reporting on a December 2016 SNAP benefit review and a January 2017 Medicaid review that she worked and received earned income from November 2016 to February 2017, in violation of WV IMM §1.2.E and §20.6.A.
- 3) The Department must impose a disqualification penalty. The disqualification penalty for a first offense is one year.

DECISION

It is the ruling of the Hearing Officer that the Defendant committed an Intentional Program Violation. She will be disqualified from participating in SNAP for one year, beginning February 1, 2018.

ENTERED this 16th Day of January 2018.

**Stephen M. Baisden
State Hearing Officer**