



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

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
203 East Third Avenue
Williamson, WV 25661**

**M. Katherine Lawson
Inspector General**

February 9, 2018



RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-2920

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: Brian Shreve, Repayment Investigator

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

██████████,

Defendant,

v.

Action Number: 17-BOR-2920

**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 December 5, 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 Section 273.16. The hearing was convened on February 8, 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 Brian Shreve, Repayment Investigator. The Defendant appeared *pro se*. The participants were sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 Code of Federal Regulations 7 CFR §273.16
- M-2 Benefit Recovery Referral dated October 31, 2017
- M-3 Form ES-FS-5, Food Stamp (now SNAP) Claim Determination
- M-4 Case recordings from Defendant's SNAP case record, dated May 1 to November 22, 2017
- M-5 Employee Wage Data print-out from WV DHHR's Data Exchange, an online site listing data from various state and federal agencies
- M-6 SNAP Six- and Twelve-Month Contact Form, signed by Defendant on February 26, 2016
- M-7 Case recordings from Defendant's SNAP case record, dated February 25 to April 6, 2016

- M-8 DFA-SNAP-1, SNAP benefit review and application form, signed by Defendant on December 15, 2016
- M-9 West Virginia Income Maintenance Manual (WV IMM) Chapter 11, §11.2
- M-10 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 November 16, 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 to the WV DHHR that she was working and receiving earned income, on SNAP benefit applications and reviews from October 2015 through November 2017.
- 2) The Defendant had been a recipient of SNAP benefits since 1999.
- 3) The Defendant began working for [REDACTED], [REDACTED], sometime during the fourth fiscal quarter of 2014 (Exhibit M-5). The Defendant has worked there without interruption since that time.
- 4) On February 26, 2016, the Defendant completed and signed a SNAP benefit six- and twelve-month contact form (Exhibit M-6). On this form, she reported that neither she nor any other person in her household was working.
- 5) On December 15, 2016, the Defendant completed a SNAP benefit review (Exhibit M-8), again reporting no earned income in her household.
- 6) Because the Defendant did not report she was working from October 2015 to November 2017, her SNAP assistance group (AG) received \$4910 in benefits to which it was not entitled.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WV IMM) Chapter 1, §1.2.4 reads, "The client's responsibility is to provide complete and accurate information about his [or her] circumstances so that the Worker is able to make a correct determination about his [or her] eligibility."

WV IMM Chapter 11, §11.2 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 (IPV) claim. The claim is the difference between the allotment the client received and the allotment he/she should have received.

WV IMM Chapter 3, §3.2.1.B.5 provides that once an IPV 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 years disqualification; Third Offense – permanent disqualification.

Pursuant to the Code of Federal Regulations 7 CFR Section 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 that she was working and receiving earned income, on SNAP benefit reviews and six- and twelve-month contact forms from October 2015 through November 2017. She received SNAP benefits throughout this period of time, in the amount of \$4190, based on this incorrect information.

The Department's representative submitted as evidence a print-out (Exhibit M-5) from the WV DHHR's data exchange, a service that provides information related to benefit recipients from various state and federal agencies. According to this print-out, the WV Bureau of Employment Program (BEP) reported that the Defendant began working for [REDACTED], [REDACTED], sometime during the fourth fiscal quarter of 2014. She has continued to work there without interruption since that time.

The Department's representative submitted as evidence a six- and twelve-month contact form the Defendant completed and signed on February 26, 2016, as a requirement of her participation in SNAP (Exhibit M-6). On this form, the Defendant reported that there was no earned or unearned income in her household.

The Department's representative also submitted a review form completed by the Defendant on December 15, 2016 (Exhibit M-8). The Defendant did not list employment or earned income on this form.

The Defendant did not attempt to refute the findings of the Department's representative.

The Department proved by clear and convincing evidence that the Defendant committed an Intentional Program Violation (IPV) by not reporting she was working, on SNAP benefit reviews

and six- and twelve-month contact forms. Because she did not report her earned income, her household received \$4190 in SNAP benefits to which she was not entitled.

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 a false or misleading statement, or misrepresented, concealed or withheld facts, in order to receive SNAP benefits to which she was not entitled.
- 2) The Department presented clear and convincing evidence that the Defendant committed an Intentional Program Violation by not reporting on SNAP reviews and periodic contact forms that she received earned income, in violation of WV IMM §1.2.4.
- 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 March 1, 2018.

ENTERED this 9th Day of February 2018.

**Stephen M. Baisden
State Hearing Officer**