



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

Bill J. Crouch
Cabinet Secretary

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

Jolynn Marra
Interim Inspector General

June 19, 2019



RE: [REDACTED] v. WV DHHR
ACTION NO.: 19-BOR-1478

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: Gina Grubb, Investigations and Fraud Management

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

██████████,

Defendant,

v.

Action Number: 19-BOR-1478

**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 March 25, 2019. 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 May 22, 2019.

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 should therefore be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Department appeared by Gina Grubb, Investigations and Fraud Management. The Defendant did not appear. The Department witness was sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 Electronic Code of Federal Regulations § 273.16
- M-2 West Virginia Income Maintenance Manual (WVIMM) § 11.2.3.B
- M-3 Benefit Recovery Referral, dated February 15, 2018
- M-4 Employee Wage Data; eRAPIDS Data Exchange – New Hire Details; Employer Profile Data
- M-5 SNAP Claim Determination; Benefit Recovery Referral, dated February 15, 2018; SNAP Claim Calculation Sheet; Check Activity; Employment Data; Wage History; Investigations and Fraud Management Appointment letter, dated August 29, 2018; Case Benefit Summary; Food Stamp Allotment Determination; Non-Financial Eligibility Determination; Case Summary; Electronic Disqualified Recipient System Query Results; Advanced Notice of Administrative Disqualification Hearing Waiver
- M-6 eRAPIDS Case Comments dated February 1, 2017 through April 20, 2018
- M-7 SNAP Review Form, signed August 13, 2017

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 was a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits and received a monthly SNAP allotment from January 2017 through February 2018 and from April 2018 through September 2018 (Exhibit M-5).
- 2) On February 15, 2018, a Benefit Recovery Referral was submitted to the Investigations and Fraud Management Unit alleging that the Defendant had failed to report earned income during February 2017 and August 2017 reviews (Exhibit M-3).
- 3) On February 25, 2019, the Movant issued an Advance Notice of Administrative Disqualification Hearing Waiver advising that the Movant had determined that the Defendant had intentionally violated a SNAP rule by failing to report employment and earned income of [REDACTED] (Exhibit M-5).
- 4) On March 25, 2019, the Movant submitted a Request for an Administrative Disqualification Hearing (ADH) seeking determination of an Intentional Program Violation (IPV) and a 12-month period of disqualification from the Defendant's participation in SNAP.
- 5) On February 3, 2017, the Defendant reported that [REDACTED] had moved into the household. (Exhibit M-6).
- 6) On August 13, 2017, the Defendant signed her completed review form acknowledging that the information she provided was true and correct and acknowledged that she accepted the listed responsibilities (Exhibit M-7).
- 7) On August 13, 2017, the Defendant signed that she understood that any member of her Assistance Group (AG) found to have committed an act of IPV would be disqualified from receiving SNAP benefits for a penalty period of twelve-months for the first offense (Exhibit M-7).
- 8) On the August 13, 2017 completed review form, the Defendant failed to list any employment or wage information for any member of her household (Exhibit M-7).

- 9) [REDACTED] was listed as a household member on the August 13, 2017 signed review form (Exhibit M-7).
- 10) On August 23, 2017, the Movant received the Defendant's completed SNAP review forms and spoke with the Defendant by phone on August 31, 2017. During the August 31, 2017 telephone call with the Movant, the Respondent did not disclose receipt of earned income by any household member (Exhibit M-6).
- 11) On February 3, 2018, the Movant processed an Interim Contact Form PRC-2 completed by the Defendant which reflected no reported changes to the Defendant's AG since her August 2017 review (Exhibit M-6).
- 12) On February 3, 2018, the Movant obtained wage-match information demonstrating that [REDACTED] was receiving wages (Exhibit M-6).
- 13) In February 2018, the Defendant's SNAP benefits were closed for failure to verify [REDACTED] income (Exhibit M-6).
- 14) On April 6, 2018, the Defendant re-applied for SNAP benefits and reported that [REDACTED] moved out of the household at the end of February 2018 (Exhibit M-6).
- 15) [REDACTED] was employed with [REDACTED] from February 13, 2017 through May 21, 2018. He received wages every two weeks from the first quarter of 2017 through the second quarter of 2018 (Exhibits M-4, M-5).
- 16) The Defendant has no previous history of IPV determination (Exhibit M-5).

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) § 10.4.2 Client Reporting Requirements provides in part:

All SNAP assistance groups (AGs) must report changes related to eligibility and benefit amount at application and redetermination.

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 §4.1 Income Introduction provides in part:

This chapter includes charts of sources of income, and shows whether they are counted for each program...

Income is defined as all monies received from any source. The determination of countable income is necessary, because it is, generally, the countable income that is tested against minimum income limits to determine benefit eligibility...

WVIMM §4.3.1 Income Chart 1 provides in part:

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

Code of Federal Regulations (March 2019) 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 (March 2019) 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 (March 2019) 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 (March 2019) 7CFR § 243.16(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 (March 2019) 7CFR § 243.16(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

DISCUSSION

The Movant investigated the Defendant's receipt of Supplemental Nutrition Assistance Program (SNAP) benefits and determined that the Defendant was over issued SNAP benefits from September 2017 through February 2018 for failure to report earned income. The Movant petitioned the Board of Review for an Administrative Disqualification Hearing (ADH) and requested the Defendant be disqualified from SNAP benefits for a 12-month penalty period and an IPV be established because she withheld information regarding the income of her AG. 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 Movant's evidence demonstrated that [REDACTED] was reported to be in the home on February 3, 2017, prior to his hire-date of February 13, 2017. As [REDACTED] was a member of the Defendant's household, the Defendant was required to disclose his income to the Movant. Pursuant to policy, the Defendant had a responsibility to provide complete and accurate information about her circumstances so that the Movant could make a correct determination about her SNAP eligibility. Policy requires that wages be reported so that the Movant can compare the Defendant's countable income to minimum income limits to determine benefit eligibility. The evidence demonstrated that the Defendant signed her acknowledgement of her responsibility to provide accurate information about the AG and demonstrated that she understood the disqualification implications if she were found to have committed an IPV. The evidence demonstrated that the Defendant had the opportunity to report [REDACTED] income by telephone and on her August 2017 written review form, but she failed to do so. As she had signed that all information contained within the August 2017 written review was true and correct while withholding information about [REDACTED] employment and income, the Defendant's actions constitute an IPV.

The evidence verifies that the Defendant committed an act of IPV to obtain SNAP benefits by intentionally making false or misleading statements, concealing, or withholding facts regarding [REDACTED] income and employment. Pursuant to regulations, individuals found to have committed an IPV through an ADH shall be ineligible to participate in SNAP for a penalty period. Because the Defendant had no previous history of IPV disqualification penalties, a first offense 12-month disqualification penalty should be imposed, beginning in accordance with timelines established in federal regulations.

CONCLUSIONS OF LAW

- 1) Pursuant to policy, the Defendant had a responsibility to report earned income during her SNAP eligibility review so that the Movant could make a correct determination about the Defendant's SNAP eligibility.
- 2) [REDACTED] resided with the Defendant from February 2017 through February 2018.

- 3) The Defendant reported that [REDACTED] was a member of her household but failed to report that he was employed or receiving earned income.
- 4) [REDACTED] was employed with [REDACTED] from February 13, 2017 through May 21, 2018. He received wages every two weeks from the first quarter of 2017 through the second quarter of 2018.
- 5) The Defendant committed an Intentional Program Violation (IPV) by intentionally making false or misleading statements, misrepresenting, concealing, or withholding facts regarding the employment and income of [REDACTED]
- 6) The Defendant had no previous history of IPV; therefore, a first offense 12-month disqualification penalty period should be imposed.

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 August 1, 2019.

ENTERED this 19th day of June 2019.

**Tara B. Thompson
State Hearing Officer**