



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241**

**Bill J. Crouch
Cabinet Secretary**

**Jolynn Marra
Interim Inspector General**

June 19, 2019



RE: [REDACTED] v. WVDHHR
ACTION NO.: 19-BOR-1654

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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

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

cc: Robin Taylor, WVDHHR

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

██████████,

Defendant,

v.

Action Number: 19-BOR-1654

**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 April 30, 2019. 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 Section 273.16. The hearing was convened on June 6, 2019.

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

At the hearing, the Movant appeared by Robin Taylor, Repayment Investigator, WVDHHR. The Defendant failed to appear.

All participants were sworn and the following documents were admitted into evidence.

Movant's Exhibits:

M-1	ADH Hearing Summary
M-2	Food Stamp Claim Determination
M-3	Case Benefit Summary
M-4	Case Summary
M-5	Case Comments
M-6	SNAP redetermination dated May 7, 2018
M-7	Social Security benefit information
M-8	Advance Notice of Administrative Disqualification Hearing Waiver dated April 18, 2019
M-9	Waiver of Administrative Disqualification Hearing
M-10	West Virginia Income Maintenance Manual Chapter 1.2.4
M-11	West Virginia Income Maintenance Manual Chapter 10.4
M-12	West Virginia Income Maintenance Manual Chapter 11.2

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) A request for an Administrative Disqualification Hearing was received by the Board of Review from the West Virginia Department of Health and Human Resources, hereinafter Movant, on April 30, 2019.
- 2) The Movant contends that the Defendant has committed an Intentional Program Violation (IPV), and is recommending that the Defendant be disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, for a period of 12 months.
- 3) Notification of the June 6, 2019 hearing was mailed to the Defendant on or about May 2, 2019 via First Class U.S. Mail.
- 4) The hearing convened as scheduled at 10:30 a.m. on June 6, 2019, and as of 10:45 a.m., the Defendant failed to call in for the telephone hearing. As set forth in the Code of Federal Regulations found at §7 CFR 273.16 (e) (4), and the West Virginia Department of Health and Human Resources Common Chapters Manual Chapter 740.20, the hearing was conducted without the Defendant in attendance.
- 5) The Defendant completed a SNAP benefit redetermination on May 7, 2018 (M-6) and reported zero income.
- 6) The Defendant failed to report during the review that she would receive Social Security income of \$962 per month (M-7). M-7 states that the Defendant received \$2,808 in back pay from the Social Security Administration on April 30, 2018, and began receiving regular payments in June 2018.
- 7) As a result of failure to provide information concerning the onset of Social Security income, the Defendant received \$1,062 in SNAP benefits to which she was not entitled for the period of June 2018 through November 2018.

APPLICABLE POLICY

Code of Federal Regulations Section 273.16.c.1 (M-13) states that an Intentional Program Violation includes making a false or misleading statement, or misrepresenting, concealing or withholding facts concerning eligibility for SNAP benefits.

West Virginia Income Maintenance Manual §1.2.4 (M-10) 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.

DISCUSSION

Federal regulations specify that an Intentional Program Violation includes making a false or misleading statement, or misrepresenting, concealing or withholding facts concerning SNAP benefit eligibility. If an Intentional Program Violation is discovered, a disqualification penalty is imposed.

Based on information provided during the hearing, the Defendant failed to report the onset of Social Security benefits. Information from the Social Security Administration reveals that the Defendant received a back payment of Social Security benefits in April 2018 and began receiving regular payments in June 2018. As the Defendant completed her SNAP redetermination on May 7, 2018, it is reasonable to conclude that she was aware of the onset of Social Security income at the time of review.

As the Defendant received more SNAP benefits than she was entitled to receive based on failure to report unearned income, the Movant acted correctly in proposing an Intentional Program Violation penalty.

CONCLUSION OF LAW

The Movant acted correctly in proposing the Defendant's disqualification from SNAP based on the commission of an Intentional Program Violation. The one-year disqualification period will begin effective August 2019.

DECISION

The Movant's proposal to apply a one (1)-year SNAP benefit disqualification is **upheld**.

ENTERED this 19th Day of June 2019.

Pamela L. Hinzman
State Hearing Officer