



**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**

November 12, 2019

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 19-BOR-2318

Dear Mr. [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,

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**

[REDACTED],

Defendant,

v.

Action Number: 19-BOR-2318

**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 [REDACTED] requested by the Movant on September 3, 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 §273.16. The hearing was convened on October 22, 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 and should therefore be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for twelve (12) months.

At the hearing, the Movant appeared by Anisha Eye, Repayment Investigator. The Defendant failed to appear. The witness was sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 Hearing Summary
- M-2 Case Members History Screen Print
- M-3 SNAP Issuance History-Disbursement Screen Prints
- M-4 SNAP Allotment Determination Screen Print
- M-5 Non-Financial Eligibility Determination Screen Print
- M-6 Assistance Status Screen Print from [REDACTED] Department of Health and Human Services
- M-7 Benefit History Listing Screen Prints from [REDACTED] Department of Health and Human Services
- M-8 Electronic Benefits Transfer Transaction History – [REDACTED]

- M-9 Correspondence with West Virginia Department of Health and Human Resources and [REDACTED] Department of Health and Human Services
- M-10 SNAP Application dated April 2, 2019
- M-11 SNAP Application dated April 11, 2019
- M-12 Electronic Benefits Transfer Transaction History – West Virginia
- M-13 Waiver of Administrative Disqualification Hearing (unsigned copy)
- M-14 Advance Notice of Waiver of Administrative Disqualification Hearing dated August 14, 2019
- M-15 Case Comments from July 2017 – July 2019
- M-16 West Virginia Income Maintenance Manual §§1.2.4, 11.2.2, and 11.6
- M-17 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 receiving SNAP benefits in two (2) states simultaneously, and requested that a SNAP penalty of twelve (12) months be imposed against him.
- 2) The Defendant was notified of the hearing by scheduling order sent on September 18, 2019. The Defendant failed to appear for the hearing or provide good cause for his 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 submitted applications for SNAP benefits on April 2 and April 12, 2019 (Exhibits M-10 and M-11).
- 4) The Defendant answered “no” to the question “Have you or anyone in your household received or do you expect to receive SNAP benefits from any other state this month?” on the April 2 and April 12, 2019 SNAP applications (Exhibits M-10 and M-11).
- 5) SNAP benefits for the Defendant were approved based on the information provided (Exhibit M-3).
- 6) The Movant received a Public Assistance Reporting Information System (PARIS) data exchange match documenting the Defendant's receipt of SNAP benefits in [REDACTED] (Exhibit M-9).
- 7) The Movant confirmed with [REDACTED] Department of Health and Human Services that the Defendant had been receiving SNAP benefits in its state since October 2014 (Exhibit M-7).

- 8) Electronic Benefit Transaction (EBT) histories confirmed that the Defendant used SNAP benefits issued by [REDACTED] while using SNAP benefits issued by West Virginia (Exhibits M-8 and M-12).

APPLICABLE POLICY

West Virginia Income Maintenance Manual §1.2.4 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.

West Virginia Income Maintenance Manual §2.5 states a client may not receive benefits in more than one county and state at the same time.

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.

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, 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).

DISCUSSION

Federal regulations define an Intentional Program Violation as making a false statement related to the acquisition of SNAP benefits.

The Defendant made false statements on his April 2 and April 12, 2019 SNAP applications in denying his receipt of SNAP benefits in another state. The Movant provided clear and convincing evidence that not only was the Defendant receiving SNAP benefits in [REDACTED] at the time of his application in West Virginia, but the evidence demonstrated that the Defendant's simultaneous use of his SNAP benefits in both states clearly showed his intent to obtain SNAP benefits in West

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

CONCLUSIONS OF LAW

- 1) The Defendant made false statements on his April 2 and April 12, 2019 SNAP applications by reporting that he had not received SNAP benefits from another state during the month of application.
- 2) The Movant provided clear and convincing evidence that the Defendant was receiving SNAP benefits in [REDACTED] at the time of his April 2019 SNAP application.
- 3) The act of making a false statement to obtain SNAP benefits constitutes an Intentional Program Violation.
- 4) The penalty for a first offense Intentional Program Violation is exclusion from participation in SNAP for 12 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 first offense, he will be excluded from participation in SNAP for 12 months, effective December 1, 2019.

ENTERED this 12th day of November 2019.

Kristi Logan
State Hearing Officer