



**STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
Berkeley County DHHR  
PO Box 1247  
Martinsburg, WV 25402**

**Bill J. Crouch  
Cabinet Secretary**

**Jolynn Marra  
Interim Inspector General**

January 29, 2019

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 18-BOR-2780

Dear [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,

Lori Woodward  
State Hearing Officer  
Member, State Board of Review

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

cc: Robin Taylor, IFM, [REDACTED] County DHHR

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

██████████,

**Defendant,**

v.

**Action No: 18-BOR-2780**

**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 November 19, 2018. 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 January 15, 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 therefore should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Movant appeared by Robin Taylor, Investigations and Fraud Management (IFM). The Defendant failed to appear. Ms. Taylor was sworn, and the following documents were admitted into evidence.

**Movant's Exhibits:**

- M-1 ADH Hearing Summary
- M-2 Food Stamp Claim Determination Form (ES-FS-5)
- M-3 Case Benefit History screen print from Defendant's eRAPIDS case
- M-4 Case Summary from Defendant's eRAPIDS case
- M-5 Case Comments from Defendant's eRAPIDS case from April 3 to September 21, 2018
- M-6 Supplemental Nutrition Assistance Program (SNAP) - 6 or 12 Month Contact Form (PRC2), signed and dated August 4, 2018
- M-7 Employment verification from ██████████
- M-8 Advance Notice of Administrative Disqualification Hearing Waiver (ig-ifm-ADH Ltr), dated November 9, 2018
- M-9 Waiver of Administrative Hearing (ig-ifm-ADH-Waiver) form

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 falsely reporting on his SNAP 6 or 12 month contact form on August 8, 2018 that there was no income in his household. The Movant requested that an IPV penalty of 12 months be imposed against him.
- 2) The Defendant was notified of the hearing by scheduling order mailed on November 11, 2018. 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) On September 8, 2018, the Defendant submitted a SNAP 6 or 12 month contact form (PRC2) stating that there was zero income in his household. (Exhibit M-6)
- 4) The Defendant has been receiving earned income from his employment with [REDACTED] since June 2017. (Exhibit M-7)
- 5) The Defendant intentionally made a false statement regarding his earned income which resulted in an over-issuance of SNAP benefits.

### **APPLICABLE POLICY**

Code of Federal Regulations, 7 CFR §273.16, mandates that 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.

WV IMM, Chapter 11, §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.

WV IMM, Chapter 3, §3.2.1.B, explains 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. Individuals convicted of an offense involving an element of the possession, use or distribution of a controlled substance as defined by Section 802 (6) of the Controlled Substance Act are also permanently excluded from participation in SNAP.

### **DISCUSSION**

Federal regulations define an IPV as making a false statement related to the acquisition of SNAP benefits. The Defendant reported that there was no income in his household on his August 8, 2018 SNAP review. The Movant provided verification that the Defendant had been working since June 2017 and had been receiving earned income at the time he submitted his SNAP review.

The Defendant clearly made a false statement on his August 8, 2018 SNAP review form regarding the absence of earned income in his household, which meets the definition of an IPV. By withholding the reporting of household income, the Defendant caused an over-issuance of SNAP benefits.

The Defendant did not appear for the hearing, and as such could not dispute facts presented by the Movant.

The Movant established by clear and convincing evidence the intent of the Defendant to provide a false statement to receive SNAP benefits for which he would not have otherwise been entitled.

### **CONCLUSIONS OF LAW**

- 1) The Defendant's intentional false statement and withholding of information meet the definition of an Intentional Program Violation.
- 2) Having committed an Intentional Program Violation and this being the Defendant's first offense, the Defendant is subject to a 12-month disqualification from SNAP.

### **DECISION**

It is the ruling of the State Hearing Officer that the Defendant committed an Intentional Program Violation. The Defendant will be disqualified from participation in SNAP for a period of twelve (12) months to begin effective March 2019.

ENTERED this 29<sup>th</sup> day of January 2019.

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**Lori Woodward, State Hearing Officer**