



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

Bill J. Crouch
Cabinet Secretary

BOARD OF REVIEW
Berkeley County DHHR
PO Box 1247
Martinsburg, WV 25402

Jolynn Marra
Interim Inspector General

February 21, 2019

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 18-BOR-2933

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: Debra Carey, IFM, [REDACTED] Co. DHHR

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

██████████,

Defendant,

v.

Action No: 18-BOR-2933

**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 20, 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 February 12, 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 Debra Carey with Investigations and Fraud Management. The Defendant failed to appear. Ms. Carey was sworn, and the following documents were admitted into evidence:

Movant's Exhibits:

- M-1 ADH Hearing Summary
- M-2 Code of Federal Regulations, 7 CFR §273.16
- M-3 West Virginia Income Maintenance Manual, Chapter, §11.2.3.B (excerpt)
- M-4 West Virginia Income Maintenance Manual, Chapter, §1.2.4
- M-5 Benefit Recovery Referral (BVRF) screen print, referral #6000255616
- M-6 Letter (ig-ifm-SuspectLetter) sent to Defendant, dated November 14, 2018
- M-7 Advance Notice of Administrative Disqualification Hearing Waiver (ig-ifm-ADH-Ltr), dated November 30, 2018
- M-8 Waiver of Administrative Disqualification Hearing (ig-ifm-Waiver)
- M-9 Supplemental Nutrition Assistance Program (SNAP) review form (CSLE) and Rights and Responsibilities, signed and dated January 23, 2017

M-10 Employee Wage Verification from [REDACTED], signed and dated September 26, 2018
M-11 Employee Wage Data screen print
M-15 Food Stamp Claim Determination Form (es-fs-5), Claim #6000255616

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 her January 23, 2017 SNAP review form that she had no income. The Movant requested that an IPV penalty of 12 months be imposed against her.
- 2) The Defendant was notified of the hearing by scheduling order mailed on December 27, 2018. The Defendant failed to appear for the hearing or provide good cause for her 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 was a recipient of SNAP benefits.
- 4) The Defendant completed a SNAP review form (CSLE) reporting no earned income in her Assistance Group (AG), signed on January 23, 2017. (Exhibit M-9)
- 5) The Defendant completed an interview for her SNAP recertification on February 10, 2017 reporting no earned income in the AG. Based upon the information the Defendant provided, SNAP benefits were approved. (Exhibit M-15)
- 6) The Defendant received earned income from [REDACTED] from January 6, 2017 through December 2017. (Exhibits M-10 and M-11)
- 7) The Defendant intentionally made a false statement regarding her 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.5, explains that persons who have been found guilty of an IPV are disqualified as follows:

- First offense: One year
- Second offense: Two years
- Third offense: Permanent

West Virginia Income Maintenance Manual, Chapter 1, §1.2.4, states that the client's responsibility is to provide complete and accurate information about his/her circumstances so that the worker is able to make a correct determination about his/her eligibility.

DISCUSSION

Federal regulations define an IPV as making a false statement related to the acquisition of SNAP benefits. The Defendant completed her SNAP recertification on February 10, 2017 reporting that there was no earned income in the AG. The Defendant's monthly SNAP allotment was calculated based upon the information she provided.

Subsequently, a repayment referral was made to IFM as it was found that the Defendant had unreported earned income. The referral was assigned to Debra Carey to investigate. Ms. Carey's investigation found that the Defendant completed a review form (CSLE) for recertification of SNAP benefits on January 23, 2017, reporting no earned income in the AG. On February 10, 2017, to complete her SNAP recertification, the Defendant underwent an interview with a department worker at which time the Defendant continued to report that she had no earned income. [REDACTED] verified that the Defendant was employed from January through December 2017.

There was no evidence presented as to the exact date of the Defendant's employment with [REDACTED], just that she began employment sometime in January 2017. However, the testimony and evidence clearly showed that the Defendant was employed at the time she conducted her SNAP recertification interview on February 10, 2017 and failed to report her earned income. The Defendant did not appear for the hearing, and as such could not dispute facts presented by the Movant.

The Defendant clearly made a false statement on her February 10, 2017 SNAP interview which meets the definition of an IPV. The Movant established by clear and convincing evidence the

intent of the Defendant to provide a false statement to receive SNAP benefits for which she would not have otherwise been entitled.

CONCLUSIONS OF LAW

- 1) The Defendant was receiving income from her employment at [REDACTED] at the time she completed her SNAP interview on February 10, 2017.
- 2) The Defendant's intentional false statement and withholding of information meet the definition of an Intentional Program Violation.
- 3) As this is the Defendant's first IPV offense, she is subject to a one year disqualification from participation in 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 one year to begin effective April 1, 2019.

ENTERED this 21st day of February 2019.

Lori Woodward, State Hearing Officer