



**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**

May 19, 2020

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 20-BOR-1403

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,

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: 20-BOR-1403

**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 March 17, 2020. 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 May 6, 2020.

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 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 Prints
- M-5 Non-Financial Eligibility Determination Screen Prints
- M-6 SNAP Claim Determination Form
- M-7 SNAP Claim Calculation Sheets
- M-8 SNAP 6 or 12-Month Contact Form dated June 3, 2019
- M-9 Employment Verification for [REDACTED]
- M-10 SNAP/Medicaid Review Form dated December 3, 2019

- M-11 Paystubs from [REDACTED]
- M-12 Benefit Payment History Screen Prints
- M-13 Employee Wage Data Screen Prints
- M-14 PARIS Match Screen Print – Veteran’s Benefits
- M-15 Social Security Administration Data Exchange Screen Print
- M-16 Case Comments from April 2019 through December 2019
- M-17 Waiver of Administrative Disqualification Hearing (unsigned copy)
- M-18 Advance Notice of Waiver of Administrative Disqualification Hearing dated March 16, 2020
- M-19 West Virginia Income Maintenance Manual §§1.2.4, 11.2 and 11.6
- M-20 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 and requested that a SNAP penalty of twelve (12) months be imposed against her.
- 2) The Defendant was notified of the hearing by scheduling order mailed on April 2, 2020. The Defendant failed to appear for the hearing or provide good cause for her failure to do so. In accordance with 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 April 4, 2019, the Defendant inquired at the local office about her SNAP benefits. Case comments from that date stated that the Defendant had turned in paystubs for her husband, [REDACTED], but they had not been added to the case. The Defendant reported that Mr. [REDACTED] Unemployment Compensation Income had ended due to returning to work (Exhibit M-16).
- 4) A case comment made on April 9, 2019, documented that March 18 and April 1, 2019 paystubs for the Defendant were entered into the Movant’s eligibility system (Exhibit M-16).
- 5) The Defendant submitted a SNAP contact form on June 3, 2019. The SNAP contact form listed the earned income used for the Defendant’s SNAP budget was \$0. The Defendant did not make any corrections to this amount or add Mr. [REDACTED] employment (Exhibit M-8).
- 6) The Defendant submitted a SNAP review form on December 3, 2019. She reported that her husband had been employed since March 25, 2019 (Exhibit M-10).

- 7) The Movant contended that the Defendant's failure to report Mr. [REDACTED] employment on the June 3, 2019 SNAP contact form resulted in an overpayment of SNAP benefits from July through December 2019 (Exhibits M-6 and M-7).

APPLICABLE POLICY

Code of Federal Regulations 7 CFR §273.16 (c) defines an Intentional Program Violation as 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.

Code of Federal Regulations 7 CFR §273.16 (e)(6) states the determination of an Intentional Program Violation will be based on clear and convincing evidence that demonstrates that the household member committed and intended to commit an Intentional Program Violation as defined above.

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.

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 can make a correct decision about his or her eligibility.

DISCUSSION

Federal regulations define an Intentional Program Violation as making a false or misleading statement related to the acquisition of SNAP benefits. The Movant contended that the Defendant committed an Intentional Program Violation when she failed to make corrections on the June 2019 SNAP contact form that listed no earned income for her household. The Defendant reported Mr. [REDACTED] employment on the December 2019 SNAP review form, however, the Movant argued that SNAP benefits that were issued from July 2019 through December 2019 were based upon the household's Veteran's Administration (VA) income and Supplemental Security Income (SSI) only.

According to the Movant's evidence, the Defendant reported in April 2019 that her husband had started working. A case comment made by the Defendant's caseworker indicated that paystubs for the Defendant, not Mr. [REDACTED] were added to the Defendant's case. Despite the caseworker's assertion that earned income was added to the Defendant's case, SNAP benefits issued for April, May and June 2019 were based upon the household's VA income and SSI only (Exhibits M-4 and M-7). The Movant's representative testified that the Defendant was not employed in April 2019 and could not explain why the record reflected that paystubs for the Defendant, and not Mr. [REDACTED] were received and entered into the Defendant's case.

The June 2019 SNAP contact form listed no earned income for the Defendant's household based upon the information that was listed in the Defendant's case at the time it was issued. The April 2019 case comments were inaccurate, and the Movant failed to act upon the Defendant's report that her husband had returned to work.

Federal regulations stipulate that a determination of an Intentional Program Violation will be based on clear and convincing evidence that demonstrates the household member committed and intended to commit an Intentional Program Violation. The Movant failed to act upon information that was timely reported by the Defendant that her husband had returned to work, which played a role in the overpayment of SNAP benefits that were issued from April to December 2019. While the Movant contended the Defendant's failure to report Mr. [REDACTED] employment on the June 2019 SNAP contact form constituted an Intentional Program Violation, the Movant had knowledge of Mr. [REDACTED] employment in April 2019.

The Movant failed to provide clear and convincing evidence that the Defendant committed an Intentional Program Violation.

CONCLUSIONS OF LAW

- 1) Federal regulations define an Intentional Program Violation as making a false or misleading statement related to the acquisition of SNAP benefits.
- 2) The Defendant reported that her husband had returned to work in April 2019.
- 3) The Movant failed to take appropriate action on the Defendant's report of the earned income and SNAP benefits were issued based upon the household's unearned income only.
- 4) The Movant failed to provide clear and convincing evidence that the Defendant intentionally withheld or provided false information related to the acquisition of SNAP benefits.
- 5) The Defendant's actions do not meet the definition of an Intentional Program Violation.

DECISION

It is the finding of the State Hearing Officer that the Defendant did not commit an Intentional Program Violation.

ENTERED this 19th day of May 2020.

**Kristi Logan
State Hearing Officer**