



**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 11, 2021

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 21-BOR-1387

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  
Certified State Hearing Officer  
Member, State Board of Review

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

cc: Emily Shumate, [REDACTED] County DHHR

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

[REDACTED]

**Defendant,**

**v.**

**Action Number: 21-BOR-1387**

**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 19, 2021. 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 April 27, 2021.

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 Emily Shumate, 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 Print
- M-4 SNAP Allotment Determination Screen Prints
- M-5 Non-Financial Eligibility Determination Screen Prints
- M-6 Case Comments from March 2020 – May 2020
- M-7 SNAP Application dated April 9, 2020
- M-8 Waiver of Administrative Disqualification Hearing (unsigned copy)
- M-9 Advance Notice of Administrative Disqualification Hearing Waiver dated February 10, 2021

- M-10 West Virginia Income Maintenance Manual §§1.2.4, 11.2, and 11.6
- M-11 Code of Federal Regulations – 7 CFR §273.16
- M-12 Employment Verification for AT&T from The Work Number Social Services Verification

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 by falsely reporting his household income 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 mailed on March 24, 2021. The Defendant failed to appear for the hearing or provide good cause for his 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) The Defendant applied for SNAP benefits on April 9, 2020 for himself, [REDACTED], and their child [REDACTED] (Exhibit M-7).
- 4) The Defendant listed no income for his household on the application (Exhibit M-7).
- 5) A telephone interview was conducted with the Defendant on April 10, 2020 (Exhibit M-6).
- 6) The Defendant reported a loss of self-employment income from his business due to the COVID-19 pandemic and reported no other income for the household (Exhibit M-6).
- 7) SNAP benefits were approved based on the information provided by the Defendant (Exhibit M-3).
- 8) The Movant discovered that [REDACTED] was hired by [REDACTED] on October 7, 2019 and received regular earnings throughout the household's receipt of SNAP benefits (Exhibit M-12).
- 9) The Movant contended that Ms. [REDACTED] employment earnings exceeded the allowable income limit to receive SNAP benefits from April through September 2020.

## **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**

The Defendant applied for SNAP benefits on April 9, 2020 and reported no earnings for his household. The Movant provided clear and convincing evidence that [REDACTED] started working in October 2019 and consistently received income from employment prior to the April 2020 SNAP application and throughout the Defendant's SNAP certification period.

The Defendant's action of making a false statement on SNAP application meets the definition of 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 no income on his April 9, 2020 application for SNAP benefits.
- 3) [REDACTED] began working in October 2019 and received regular income throughout the Defendant's receipt of SNAP benefits.
- 4) By making a false statement to receive SNAP benefits, the Defendant has committed an Intentional Program Violation.
- 5) 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 has committed an Intentional Program Violation. He will be disqualified from participating in the Supplemental Nutrition Assistance Program for 12 months, effective June 1, 2021.

**ENTERED this 11<sup>th</sup> day of May 2021.**

---

**Kristi Logan**  
**Certified State Hearing Officer**