



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of the Inspector General
Board of Review**

**Sherri A. Young, DO, MBA, FAAFP
Interim Cabinet Secretary**

**Christopher G. Nelson
Interim Inspector General**

August 23, 2023



RE: [REDACTED] **v. WVDHHR**
ACTION NO.: 23-BOR-2191

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,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

Encl: Recourse to Hearing Decision
Form IG-BR-29

cc: Birdena Porter, WVDHHR

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

██████████,

Defendant,

v.

Action Number: 23-BOR-2191

**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 ██████████. 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. This fair hearing convened on August 17, 2023.

The matter before the Hearing Officer arises from a request by the Movant for a determination as to whether the Defendant committed an Intentional Program Violation and should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for a period of twelve (12) months.

The Movant appeared by Birdena Porter, Repayment Investigator. The Defendant failed to appear. All witnesses were sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 Hearing Summary
- M-2 Food Stamp Claim Determination
- M-3 SNAP Issuance History
- M-4 Food Stamp Allotment Determination
- M-5 Case Member History
- M-6 Combined Application and Review Form dated October 28, 2022
- M-7 ██████████ Department of Health and Human Services Interview Recertification Form dated January 15, 2023
- M-8 Client Summary ██████████ Department of Health and Human Services

- M-9 Electronic Benefits Transfer Transaction Detail from [REDACTED] Department of Health and Human Services
- M-10 Employee Wage Data
- M-11 Advance Notice of Administrative Disqualification Hearing dated July 5, 2023
- M-12 Waiver of Administrative Disqualification Hearing
- M-13 West Virginia Income Maintenance Manual § 1.2.4
- M-14 West Virginia Income Maintenance Manual § 11.1-11.2
- M-15 West Virginia Income Maintenance Manual § 11.6.2
- M-16 Code of Federal Regulations – Title 7 CFR §273.16

Defendant's Exhibits:

None

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 failing to disclose the receipt of Supplemental Nutrition Assistance Program (SNAP) benefits from the State of [REDACTED] and failing to report employment income at his application for benefits. (Exhibit M-11)
- 2) The Movant requested that a twelve-month penalty be imposed. (Exhibit M-12)
- 3) The Defendant is a current recipient of SNAP benefits. (Exhibit M-3)
- 4) The Defendant was notified of the hearing by scheduling order mailed on July 18, 2023, by certified mail. 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.
- 5) The Defendant received continuous SNAP benefits for himself from November 2022 through August 2023 with the State of West Virginia. (Exhibit M-3 and Exhibit M-5)
- 6) On October 28, 2022, the Defendant completed a Combined Application and Review Form for SNAP assistance in which he reported that he was not currently receiving SNAP benefits in another state. (Exhibit M-6)
- 7) The Defendant reported the only income available to his household was through Social Security. (Exhibit M-6).

- 8) The Defendant's SNAP application was approved in the amount of 23.00 for November 2022 and ongoing months. (Exhibit M-3)
- 9) The Defendant received supplemental SNAP benefits due to the COVID-19 pandemic in the amount of \$258.00 for November 2022 through February 2023.
- 10) The Defendant received SNAP benefits in the state of [REDACTED] until January 2023. (Exhibit M-7)
- 11) The Defendant received SNAP benefits in multiple states from October 2022 until January 2023.
- 12) The Defendant made multiple purchases with his State of [REDACTED] Electronic Benefits Transfer (EBT) card in the State of West Virginia from October 2022 until February 2023. (Exhibit M-9)
- 13) The Defendant was employed with the [REDACTED] for the first quarter of 2023. (Exhibit M-10)
- 14) The Defendant's employment income made him financially ineligible for SNAP benefits. (Exhibit M-2)

APPLICABLE POLICY

Code of Federal Regulations, 7 CFR §273.16 documents:

An individual making a false or misleading statement, or misrepresenting, concealing, or withholding facts, violating the Food Stamp Program (SNAP), 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).

Code of Federal Regulations, 7 CFR §273.16(b) documents:

(1) Individuals found to have committed an Intentional Program Violation either through an administrative disqualification hearing or by a Federal, State or local court, or who have signed either a waiver of right to an administrative disqualification hearing or a disqualification consent agreement in cases referred for prosecution, shall be ineligible to participate in the Program:

(i) For a period of twelve months for the first Intentional Program Violation, except as provided under paragraphs (b)(2), (b)(3), (b)(4), and (b)(5) of this section;

(ii) For a period of twenty-four months upon the second occasion of any Intentional Program Violation, except as provided in paragraphs (b)(2), (b)(3), (b)(4), and (b)(5) of this section; and

(iii) Permanently for the third occasion of any Intentional Program Violation.

(13) The individual must be notified in writing once it is determined that he/she is to be disqualified. The disqualification period shall begin no later than the second month which follows the date the individual receives written notice of the disqualification. The disqualification period must continue uninterrupted until completed regardless of the eligibility of the disqualified individual's household.

West Virginia Income Maintenance Manual §1.2.4 documents:

It is the client's responsibility to provide information about his/her circumstances, so the Worker is able to make a correct decision about his/her eligibility.

West Virginia Income Maintenance Manual §11.2.3. B documents:

IPVs 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 documents:

Persons who have been found guilty of an IPV are disqualified as follows:

- First offense – one-year disqualification
- Second offense - two-year disqualification
- Third offense - permanent disqualification

West Virginia Income Maintenance Manual § 2.5 documents:

A client may only receive benefits in one county and state.

DISCUSSION

The Movant requested an Administrative Disqualification Hearing from the Board of Review citing that the Defendant committed an Intentional Program Violation (IPV) by willfully misrepresenting his household situation by failing to disclose he was receiving Supplemental Nutrition Assistance Program (SNAP) benefits in another state at his application for benefits in

the State of West Virginia. The Movant requests that the Defendant be disqualified from receiving SNAP benefits for a period of twelve (12) months. For purposes of the Administrative Disqualification Hearing, the Movant must prove by clear and convincing evidence that the Defendant intentionally made false or misleading statements, misrepresented, concealed, or withheld facts to obtain SNAP assistance to which he was not entitled.

The Defendant was a recipient of SNAP benefits in [REDACTED] (Exhibit M-6) at the time of his October 2022 application for SNAP benefits in West Virginia. The Defendant continued to receive and utilize [REDACTED] SNAP benefits from October 2022 through February 2023. (Exhibit M-6)

Evidence is clear that the Defendant willfully misrepresented his situation by failing to report the receipt of SNAP benefits in [REDACTED]. By failing to report the receipt of SNAP benefits in another state at his October 2022 application for West Virginia SNAP benefits, the Defendant received SNAP benefits to which he was not entitled.

CONCLUSIONS OF LAW

- 1) The Defendant made false statements at his October 2022 SNAP application by failing to report the receipt of SNAP benefits in [REDACTED]
- 2) Because the Defendant was receiving benefits in another state, he was ineligible to receive SNAP benefits in the State of West Virginia at his October 2022 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 a period of twelve (12) months.
- 5) The Defendant's action meets the definition of an Intentional Program Violation.

DECISION

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation. The Defendant will be excluded from participation in the Supplemental Nutrition Assistance Program for twelve (12) months effective October 1, 2023.

ENTERED this ____ day of August 2023.

Eric L. Phillips
State Hearing Officer