



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

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

**Christopher G. Nelson  
Interim Inspector General**

November 28, 2023



RE: [REDACTED] v. WV DHHR  
ACTION NO.: 23-BOR-3035

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,

Kristi Logan  
Certified State Hearing Officer  
Member, State Board of Review

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

cc: Cassie Burns, [REDACTED] DHHR

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

[REDACTED],

**Defendant,**

**v.**

**Action Number: 23-BOR-3035**

**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 September 29, 2023. 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 November 7, 2023.

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 be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for twelve (12) months.

At the hearing, the Movant appeared by Cassie Burns, Criminal Investigator. The Defendant failed to appear. The witness was placed under oath, and the following documents were admitted into evidence.

**Movant's Exhibits:**

- M-1 Code of Federal Regulations – 7 CFR §273.16
- M-2 Report of Overpayment Determination, SNAP Claim Calculation Sheets and SNAP Allotment Determination Screens
- M-3 Employment Verification from [REDACTED]
- M-4 Statement from Defendant dated September 10, 2020
- M-5 SNAP 6 or 12-Month Contact Form received July 12, 2018
- M-6 SNAP and Medicaid Review Form received January 29, 2019
- M-7 Medicaid Review Form received January 29, 2019
- M-8 West Virginia Income Maintenance Manual §1.2.4
- M-9 West Virginia Income Maintenance Manual §11.2
- M-10 West Virginia Income Maintenance Manual §11.6
- M-11 Advance Notice of Administrative Disqualification Waiver dated September 12, 2023

### **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 falsely reporting her household income and requested that a twelve (12) month penalty be imposed against her.
- 2) The Defendant was notified of the hearing by scheduling order mailed on October 3, 2023. 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) The Defendant submitted a SNAP interim contact form to the Movant on July 12, 2018, and reported no earned income for her household (Exhibit M-5).
- 4) The Defendant submitted a SNAP and Medicaid review form to the Movant on January 29, 2019, and reported no earned income for her household (Exhibit M-6).
- 5) The Movant verified with [REDACTED] that the Defendant was employed from November 13, 2017, through September 30, 2019 (Exhibit M-3).
- 6) In a statement obtained by the Movant on September 10, 2020, the Defendant admitted that she did not list her income from [REDACTED] on application and review forms because she was in a tough place and she knew she would receive more benefits if she did not report the income (Exhibit M-4).

### **APPLICABLE POLICY**

**Code of Federal Regulations 7 CFR §273.16** states that 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).

**West Virginia Income Maintenance Manual §11.2.3.B** states that 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.

**Code of Federal Regulations, 7 CFR §273.16(b)**, describes the Disqualification penalties:

(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** states that 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.

### **DISCUSSION**

Federal regulations define an Intentional Program Violation as making a false statement related to the acquisition of SNAP benefits. An individual who is found to have committed an Intentional Program Violation is disqualified from participation in SNAP.

The Defendant made false statements on SNAP interim contact forms and SNAP review forms by reporting that her household did not have any earned income when she was employed and receiving regular earnings. The Defendant admitted in a signed statement that she was aware that if she did not report her income, she would receive more SNAP benefits.

The Defendant's actions meet the definition of an Intentional Program Violation.

### **CONCLUSIONS OF LAW**

- 1) The Defendant made false statements on SNAP review and SNAP contact forms by reporting that no one in her household was working.

- 2) The Defendant was employed by [REDACTED] from November 2017 through September 2019.
- 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 12 months.

### **DECISION**

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation. As this is the Defendant's first offense, she will be excluded from participation in the Supplemental Nutrition Assistance Program for 12 months, effective January 1, 2024.

**ENTERED this 28<sup>th</sup> day of November 2023.**

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