



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

**Jeffrey H. Coben, MD
Interim Cabinet Secretary**

**Sheila Lee
Interim Inspector General**

May 9, 2023

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 23-BOR-1353

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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

cc: Robert Meade, [REDACTED] DHHR

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

██████████,

Defendant,

v.

Action Number: 23-BOR-1353

**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 March 9, 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 April 25, 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 Robert Meade, Repayment Investigator. The Defendant failed to appear. The witness was placed under oath, and the following documents were admitted into evidence.

Movant's Exhibits:

- D-1 Repayment referral screen print
- D-2 Excerpts from the West Virginia Income Maintenance Manual
- D-3 Excerpts from the Code of Federal Regulations
- D-4 Electronic Disqualification Recipient System screen print
- D-5 SNAP claim determination form and calculation sheets
- D-6 SNAP claim determination form and calculation sheets
- D-7 SNAP claim determination form and calculation sheets
- D-8 SNAP claim determination form and calculation sheets
- D-9 SNAP claim determination form and calculation sheets
- D-10 Case summary screen print
- D-11 Case benefit summary screen prints
- D-12 Excerpts of case comments screen prints
- D-13 Employee wage data screen prints for ██████████

- D-14 Employee wage data screen prints for the Defendant
- D-15 Income calculation notes
- D-16 Application/review documents dated July 22, 2019
- D-17 Application/review documents dated January 22, 2020
- D-18 Application/review documents dated March 3, 2020
- D-19 Excerpt of application/review documents dated December 21, 2020
- D-20 Application for Emergency Assistance dated April 15, 2021
- D-21 Zero Income/Home Heating Cost Verification form
- D-22 Written statement from the Defendant, dated May 18, 2022

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 composition and 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 March 23, 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 was a recipient of SNAP benefits.
- 4) The Defendant provided a written statement to an investigator for the Movant on May 18, 2022. (Exhibit D-22)
- 5) The Defendant wrote in this statement (Exhibit D-22), in pertinent part, "I [Defendant] live at [REDACTED] with my daughter, [Child [REDACTED]]. Her father [REDACTED] also resides at [REDACTED] and has for about 3 years. [sic]"
- 6) On application or review documents dated January 22, 2020 (Exhibit D-17), and March 3, 2020 (Exhibit D-18), the Defendant listed a physical address of [REDACTED]
- 7) On the same documents (Exhibits D-17 and D-18), the Defendant listed herself and her daughter as residing in the home, but did not list [REDACTED] as residing with her.

- 8) The Movant verified income (Exhibit D-13) for [REDACTED] and determined the Defendant's household would be ineligible (Exhibits D-5, D-6, D-7, D-8, and D-9) for SNAP benefits with the addition of [REDACTED] and his earnings to the case.
- 9) The Defendant has no prior IPV's (Exhibit D-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 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.

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.

West Virginia Income Maintenance Manual §3.2.1.A.4 states that natural or adopted children and stepchildren who are under 22 years of age and who live with a parent must be in the same assistance group (AG) as that parent.

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 Movant must show, by clear and convincing evidence, that the Defendant committed an Intentional Program Violation.

The Defendant reported herself and her daughter as the sole individuals in her home. This information was the basis for setting the SNAP allotment the household was entitled to receive. An investigator with the Movant obtained a written statement from the Defendant. This statement (Exhibit D-22), provided on May 18, 2022, indicated the father of the Defendant's child was living at the same address, "...for about 3 years." The Movant provided application documents (Exhibits D-17 and D-18) which showed the Defendant's physical address **matching** the address reported for [REDACTED]. On these same documents, the Defendant omitted [REDACTED] from the household composition and income sections. These false statements show the Defendant committed an IPV.

By falsely reporting that her household composition and income, the Defendant received SNAP benefits for which she was not entitled to receive. The Defendant's actions meet the definition of an Intentional Program Violation.

CONCLUSIONS OF LAW

- 1) Because the Defendant omitted [REDACTED] from application and review documents for SNAP, these documents are false statements.
- 2) Because the Defendant made false statements regarding the acquisition of SNAP benefits, she committed an Intentional Program Violation (IPV) of SNAP regulations.
- 3) Because the Defendant has committed no prior IPV's, the Movant must apply a first offense, 12-month disqualification from participation in SNAP.

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 June 1, 2023.

ENTERED this ____ day of May 2023.

**Todd Thornton
State Hearing Officer**