



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL

Jeffrey H. Coben, M.D.  
Interim Cabinet Secretary

Sheila Lee  
Interim Inspector General

June 22, 2023

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 23-BOR-1613

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,

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

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

cc: Sarah Ellis, IFM

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

████████████████████,

**Defendant,**

v.

**Action Number: 23-BOR-1613**

**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 April 27, 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 convened on June 21, 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 Sarah Ellis, Repayment Investigator. The Defendant failed to appear. All witnesses were sworn and the following documents were admitted into evidence.

**Movant's Exhibits:**

- M-1 Code of Federal Regulations – Title 7 CFR §273.16
- M-2 Food Stamp Claim Determination
- M-3 Marriage Certificate
- M-4 Social Media Post dated February 16
- M-5 Bank Statements
- M-6 DMV Records
- M-7 Employment Data from ██████████ for ██████████
- M-8 Employment Data from ██████████ for ██████████
- M-9 Periodic Review Form dated November 2018

- M-10 CLSR Review Form dated July 2019
- M-11 Periodic Review Form dated November 2019
- M-12 CLSR Review Form dated December 2020
- M-13 CLSR Review Form dated November 2022
- M-14 West Virginia Income Maintenance Manual § 1.2.4
- M-15 West Virginia Income Maintenance Manual § 11.2
- M-16 West Virginia Income Maintenance Manual § 11.6.2
- M-17 Waiver of Administrative Disqualification Hearing

**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 report her husband as a member of her assistance group for Supplemental Nutrition Assistance Program (SNAP) benefits. (Exhibit M-17)
- 2) The Movant requested that a twelve-month penalty be imposed.
- 3) The Defendant was notified of the hearing by scheduling order mailed on May 3, 2023, by certified mail. The scheduling order was received by the Defendant on May 10, 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.
- 4) The Defendant was a recipient of SNAP benefits from January 2019 through December 2020 and December 2022 through April 2023. (Exhibit M-17)
- 5) The Defendant reported that her household consisted of herself and two children. (Exhibit D-9-Exhibit D-13)
- 6) On July 12, 2019, the Defendant completed a redetermination for benefits reporting that her household consisted of herself and her daughter. The Defendant reported no employment income available to the household. (Exhibit D-10)

- 7) On December 3, 2019, the Defendant completed a redetermination for benefits reporting that her household consisted of herself and her two children. The Defendant attested that there was no employment income available to the household. (Exhibit D-11)
- 8) On December 29, 2020, the Defendant completed a redetermination for benefits reporting that her household consisted of herself and her daughter. The Defendant reported no employment income available to the household. (Exhibit D-12)
- 9) On December 5, 2022, the Defendant completed a redetermination for benefits reporting that her household consisted of herself and her two children. The Defendant reported no employment income available to the household (Exhibit D-13)
- 10) At each redetermination, the Defendant listed a home address of [REDACTED].
- 11) The Defendant and her husband were married on October 14, 2004.
- 12) The Defendant and her husband maintained a joint bank account, with a corresponding address of [REDACTED], from January 2019 through May 2019. (Exhibit D-5)
- 13) The Defendant and her husband jointly owned and titled multiple vehicles at the same address of [REDACTED] with the Division of Motor Vehicles from 2018 through 2022. (Exhibit D-6)
- 14) The Defendant's husband was employed with [REDACTED] with a documented address of [REDACTED], from December 7, 2015 to November 20, 2020. (Exhibit D-8)
- 15) On February 21, 2023, the Defendant's husband commenced employment with [REDACTED] and reported his home address as [REDACTED]. (Exhibit D-8)

### **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

## **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 her household composition and income available to her household. 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 she was not entitled.

The Defendant was a recipient of SNAP benefits from January 2019 through December 2020 and again from December 2022 through April 2023. During that timeframe, the Defendant contacted the Movant by completing several recertifications for benefits reporting a home address as [REDACTED]. At each redetermination, the Defendant listed that her household consists of herself and her children with child support being the only income available to the household. The Movant claims that the Defendant willfully misrepresented her household composition and financial circumstances by failing to report her husband as a member of her household. The Movant provided evidence which documents that the Defendant and her husband were married in October 2004. The Defendant's husband maintained employment income from [REDACTED] from December 2015 until November 2020, where he listed his home address as [REDACTED]. In September 2022, the Defendant's husband commenced employment with [REDACTED], in which he listed his home address as [REDACTED] and previously was employed with the same company from November 2020 through April 2022. Additionally, the Movant provided Division of Motor Vehicle records in which the Defendant and her husband listed multiple vehicles throughout the timeframe in question at the same residential address listed in the redeterminations.

Evidence is clear that the Defendant willfully misrepresented her household composition by failing to include her husband in the assistance group. The Defendant's husband maintained employment earnings during the timeframe in which he should have been included in the SNAP assistance group. By failing to include her husband and his employment income in the SNAP assistance group, the Defendant received SNAP benefits to which she was not entitled. (Exhibit D-2).

## **CONCLUSIONS OF LAW**

- 1) The Defendant made false statements at multiple recertifications for SNAP benefits by failing to report her husband as a member of the SNAP assistance group.
- 2) The Defendant's husband had employment earnings which the Defendant failed to report at each recertification for SNAP benefits. The additional income would have reduced the Defendant's SNAP benefit allotment.

- 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 actions meet 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 August 1, 2023.

**ENTERED this \_\_\_\_\_ day of June 2023.**

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Eric L. Phillips  
**State Hearing Officer**