



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

Sheila Lee  
Interim Inspector General

July 12, 2023

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 23-BOR-1807

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: Edgar Buster, [REDACTED] DHHR

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

██████████,

**Defendant,**

v.

**Action Number: 23-BOR-1807**

**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 May 24, 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 June 27, 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 Edgar Buster, 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 West Virginia Income Maintenance Manual §3.2.1.A
- M-3 Final Order from the Family Court of ██████████, West Virginia dated August 5, 2017
- M-4 Statement from ██████████ dated October 12, 2017
- M-5 Final Order from the Family Court of ██████████, West Virginia dated June 30, 2016
- M-6 Temporary Order from the Family Court of ██████████, West Virginia dated July 10, 2017
- M-7 Final Order from the Family Court of ██████████, West Virginia dated July 20, 2017
- M-8 Statement from ██████████ dated September 18, 2017
- M-9 SNAP and Medicaid Review Form dated October 8, 2014
- M-10 SNAP 6 or 12-Month Contact Form dated April 17, 2015
- M-11 SNAP and Medicaid Review Form dated October 19, 2015
- M-12 SNAP 6 or 12-Month Contact Form dated May 20, 2016

- M-13 SNAP and Medicaid Review Form dated October 13, 2016
- M-14 SNAP 6 or 12-Month Contact Form dated May 4, 2017
- M-15 West Virginia Income Maintenance Manual §11.2
- M-16 West Virginia Income Maintenance Manual §11.6
- M-17 Advance Notice of Administrative Disqualification Hearing Waiver dated April 11, 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 composition 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 May 24, 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 for herself and her three children, [REDACTED].
- 4) The Defendant reported all three children as residing in her household on the October 8, 2014 SNAP review, April 17, 2015 SNAP contact form, October 19, 2015 SNAP review form, May 20, 2016 SNAP contact form, and the October 13, 2016 SNAP review form (Exhibits M-9, M-10, M-11, M-12, and M-13).
- 5) The Defendant reported [REDACTED] as residing in her home on the May 4, 2017 SNAP contact form (Exhibit M-14).
- 6) Custody of [REDACTED] was given to her father, [REDACTED] by court order dated August 5, 2014, with the Defendant granted supervised visitation two hours per week (Exhibit M-3).

**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 numerous false statements on SNAP review forms and SNAP contact forms by reporting [REDACTED] as residing in her home. Custody of [REDACTED] was given to [REDACTED] in August 2014, but the Defendant continued to report [REDACTED] in her home until October 2017.

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

### **CONCLUSIONS OF LAW**

- 1) The Defendant made multiple false statements on SNAP review and SNAP contact forms by reporting that [REDACTED] resided in her home.
- 2) Full custody of [REDACTED] was given to her father in August 2014.
- 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 August 1, 2023.

**ENTERED this 12<sup>th</sup> day of July 2023.**

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