



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

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Interim Cabinet Secretary

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Sheila Lee
Interim Inspector General

January 5, 2023



RE: [REDACTED] v. WVDHHR
ACTION NO.: 22-BOR-2515

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: Recourse to Hearing Decision
Form IG-BR-29

cc: Robin Taylor, WVDHHR

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

██████████,

Defendant,

v.

Action Number: 22-BOR-2515

**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. The hearing was convened on January 4, 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.

At the hearing, the Movant appeared by Robin Taylor, 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 Request
- M-2 Waiver of Administrative Disqualification Hearing unsigned
- M-3 Advance Notice of Administrative Disqualification Hearing dated November 9, 2022
- M-4 Food Stamp Claim Determination
- M-5 Periodic Report Form dated August 18, 2022
- M-6 Computer printout of Case Summary
- M-7 Computer printout General Case Information
- M-8 Computer printout of Case Benefit Summary
- M-9 Computer printout of Case Comments

- M-10 IPACT Marriage Information
- M-11 Employee Wage Data
- M-12 West Virginia Income Maintenance Manual § 1.2.4
- M-13 West Virginia Income Maintenance Manual § 21.6.4
- M-14 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 withholding information concerning her household composition and income and requested that a twelve (12) month penalty be imposed. (Exhibit M-3)
- 2) The Defendant was notified of the hearing by scheduling order mailed on November 30, 2022, by certified mail. The scheduling order was received by the Defendant on December 12, 2022. 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 two children.
- 4) On August 18, 2022, the Defendant completed a Periodic Report (PRC2) form as a recertification for SNAP benefits. At the recertification, the Defendant reported no changes to her household situation. (Exhibit M-5)
- 5) On September 1, 2022, the Movant’s Child Protective Services (CPS) division reported that both children had been removed from the Defendant’s home. (Exhibit M-9)
- 6) On September 1, 2022, the Movant’s CPS division reported the Defendant’s marriage to [REDACTED]. (Exhibit M-9)
- 7) The Defendant was married to [REDACTED] on July 3, 2022. (Exhibit M-10)
- 8) The Defendant’s husband is employed with [REDACTED]. (Exhibit M-11)

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).

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. 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.

On August 18, 2022, the Defendant, a recipient of SNAP benefits, completed a recertification to determine her continued eligibility for the program. During that recertification, the Defendant

attested that there were no changes to the composition or income available to her home. On September 1, 2022, the Defendant's children were removed from her home by CPS. At the time of the children's removal, it was reported that the Defendant's husband resided in the home. The Movant determined that the Defendant was married on July 3, 2022 and her spouse had consistent earnings from the [REDACTED] (Exhibits M-10 and M-11). The Movant claims that the Defendant intentionally withheld facts concerning her household composition and income to receive SNAP benefits that she was not entitled (Exhibit M-4).

Evidence is clear that the Appellant was married on July 3, 2022 and her spouse had consistent earnings for the first three quarters of 2022, including the month in which the recertification for benefits was completed. The Defendant had the responsibility to report accurate information during that recertification to ensure the correct eligibility determination of her monthly SNAP benefit. By failing to report her proper household composition and income available to the household, the Defendant received SNAP benefits to which she was not entitled.

CONCLUSIONS OF LAW

- 1) The Defendant withheld information at her recertification for SNAP benefits by failing to report her marriage and her husband's employment earnings.
- 2) Evidence revealed that the Defendant and her husband were married on July 3, 2022 and her husband had consistent employment earnings through the time of the SNAP recertification.
- 3) The addition of income would have terminated the Defendant's financial eligibility for SNAP benefits.
- 4) The act of withholding information to obtain SNAP benefits constitutes an Intentional Program Violation.
- 5) The penalty for first offense Intentional Program Violation is exclusion from participation in SNAP for a period of twelve (12) months.
- 6) 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 February 1, 2022.

ENTERED this ____ day of January 2023.

Eric L. Phillips
State Hearing Officer