



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
P.O. Box 1247
Martinsburg, WV 25402

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

November 15, 2017

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 17-BOR-2521

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,

Lori Woodward
State Hearing Officer
Member, State Board of Review

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

cc: Fred Francis, IFM, [REDACTED] Co. DHHR

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

██████████,

Defendant,

v.

Action Number: 17-BOR-2521

**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 September 20, 2017. This hearing convened on October 31, 2017, and 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 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 (IPV) by making fraudulent statements or representations about her place of residence in order to receive multiple Supplemental Nutrition Assistance Program (SNAP) benefits simultaneously.

At the hearing, the Department appeared by Fred Francis with Investigations and Fraud Management. The Defendant failed to appear. Mr. Francis was sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- D-1 West Virginia Department of Health and Human Resources Request for WV WORKS Cash Assistance form signed and dated June 8, 2016; Department of Health and Human Resources State of West Virginia Combined Application and Review Form for Financial, Medical, and Supplemental Nutrition Assistance Program signed and dated June 8, 2016; 2011; and Rights and Responsibilities form signed and dated June 8, 2016
- D-2 DFA-SNAP-2, West Virginia Department of Health and Human Resources Supplemental Nutrition Assistance Program (SNAP) form signed and dated October 13, 2016; ██████████ SNAP Discontinuance Notice

- dated October 18, 2016; [REDACTED] Discontinuance Notice dated October 18, 2016; and West Virginia Department of Health and Human Resources Acknowledgement of Automatic Assignment of Support Rights and Cooperation Requirements signed and dated June 8, 2016
- D-3 [REDACTED] Department for Community Based Services SNAP Review form signed and dated July 25, 2016; and [REDACTED] Intent to Apply for Medicaid and/or [REDACTED] (Cash Assistance) signed and dated February 24, 2016
- D-4 [REDACTED] Intent to Apply for Medicaid and/or [REDACTED] (Cash Assistance) signed and dated January 20, 2016
- D-5 [REDACTED] SNAP Approval Notice dated November 3, 2016
- D-6 [REDACTED] Supplemental Nutrition Assistance Program (SNAP) Application Summary dated November 10, 2016
- D-7 [REDACTED] Information of Your SNAP Benefits dated November 10, 2016
- D-8 Twelve-month Lease Agreement for [REDACTED] signed and dated February 3, 2016; signed statement by [REDACTED] date stamped received November 4, 2016; signed statement [REDACTED] date stamped received November 10, 2016; and signed statement by [REDACTED] date stamped received November 10, 2016
- D-9 Screen print of [REDACTED] benefits received by the Defendant from the [REDACTED] from March 2016 through October 31, 2016
- D-10 Screen print of SNAP benefits received by the Defendant from the [REDACTED] from March 2016 through October 31, 2016 and November 3, 2016 through November 30, 2016

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 Investigations and Fraud Management (IFM) unit of the West Virginia Department of Health and Human Resources (Department) alleged an act of Intentional Program Violation (IPV) by the Defendant by making fraudulent statements or representations about her residence in order to receive multiple SNAP benefits.
- 2) The Board of Review (BOR) sent to the Defendant a Notice of the Administrative Disqualification Hearing (Notice) on September 20, 2017, by U.S. Postal Service, to the address on file. No mail has been returned to this office to date. The Defendant failed to appear. As set forth in regulations (7 CFR §273.16(e) (4)), and State Policy (West Virginia Department of Health and Human Resources' Common Chapters Manual, 740.20), the hearing was conducted without the Defendant in attendance.

- 3) The Defendant applied for WV SNAP and WV WORKS benefits on June 8, 2016, reporting only herself and her son resided at [REDACTED]. SNAP benefits were approved. (Exhibits D-1).
- 4) The Defendant returned her SNAP review for the state of [REDACTED] signed and dated on July 25, 2016, reporting her residence as [REDACTED], and reporting that she was paying utility expenses. (Exhibit D-3)
- 5) On October 13, 2016, the Defendant returned her SNAP review form to the [REDACTED] County WV DHHR reporting [REDACTED] in her household. However, she also reported that she was residing at the "[REDACTED]". She reported no rent or utility expenses. (Exhibit D-2)
- 6) On October 18, 2016, the [REDACTED] County WV DHHR received a SNAP and [REDACTED] closure notice from the [REDACTED] Cabinet for Health and Family Services [REDACTED] stating the Defendant's benefits were being closed on November 1, 2016. The notice was addressed to the Defendant at [REDACTED]. (Exhibit D-2)
- 7) On November 3, 2016, [REDACTED] sent the Defendant a SNAP Approval Notice based on the information she provided at her application to her reported address at [REDACTED]. (Exhibit D-5)
- 8) On November 10, 2016, [REDACTED] sent to the Defendant at [REDACTED] a summary of the information the Defendant provided for her SNAP renewal in that state, including shelter/utility expense of \$150 per month. (Exhibits D-6 and D-7)
- 9) The Defendant signed a twelve-month lease agreement on February 3, 2016 for the property situated at [REDACTED] for herself and her son as the only tenants. (Exhibit D-8)
- 10) The Defendant provided signed verifications of her residency (including one signed by her landlord) at [REDACTED], date stamped received on November 4, 2016. (Exhibit D-8)

APPLICABLE POLICY

WV IMM Chapter §8.6 states that a client may not receive SNAP benefits in more than one county in West Virginia or more than one state. An individual, who has made a fraudulent statement or representation about his identity or place of residence in order to receive multiple SNAP benefits simultaneously, is ineligible to receive SNAP benefits for a 10-year period. The 10-year period begins on the date the client is found guilty in a federal or state court or in an ADH. This applies to multiple benefits received in more than one state or in the same state. Conviction of, or ADH

finding of, attempting to receive such multiple benefits carries the same disqualification penalty as actual receipt of the benefits.

7 CFR §273.16(b)(5) explains that except as provided under paragraph (b)(1)(iii) of this section, an individual found to have made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple SNAP benefits simultaneously shall be ineligible to participate in the Program for a period of 10 years.

West Virginia Income Maintenance Manual §20.2.C.2 defines an IPV (Intentional Program Violation) as making false or misleading statements, misrepresentations, 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 individual(s) who is found to have committed an IPV is ineligible to participate in the Program.

WV IMM Chapter 20.6.A explains that “[A] willfully false statement is one that is deliberately given, with the intent that it be accepted as true, and with the knowledge that it is false . . . It is not essential that an affirmative representation be made. Misrepresentation may also be the suppression of what is true, as well as the representation of what is false.”

WV Common Chapters 740.22.G instructs that the burden of proof is on the Department to prove, by clear and convincing evidence, that the Defendant committed an Intentional Program Violation.

DISCUSSION

On June 8, 2016, the Defendant made an application in the state of WV for SNAP benefits, reporting that only she and her son resided at [REDACTED]. In this application, it is noted that she disclosed she had received benefits in another state. However, the testimony provided by the Movant’s representative showed the Defendant was given SNAP benefits from the state of WV beginning June 2016. The following month, on July 25, 2016, the evidence presented showed that the Defendant renewed her SNAP benefits in the state of [REDACTED] providing an address of [REDACTED], which is the address she had a signed 12-month rental agreement in February 2016. The Defendant received SNAP benefits from the [REDACTED] based on that information.

In October 2016, the Defendant submitted a SNAP renewal form for the state of WV reporting that [REDACTED] had moved into her household but stated she lived at the “[REDACTED]”. She then returned a notice of SNAP closure as of November 1, 2016 from the [REDACTED] addressed to the Defendant at [REDACTED]. However, shortly after submitting her WV SNAP renewal form on October 18, 2017, she reopened her SNAP benefits in the state of [REDACTED] again reporting her address as [REDACTED]. Signed verifications of her residency at the address were provided to the [REDACTED] in November 2016, one of which was from the landlord of record for that address.

Taken by itself and without more, the June 8, 2016 WV SNAP application and the following renewal of SNAP benefits in the state of [REDACTED] does not necessarily give rise to show that the

Defendant knowingly attempted to establish residency in both West Virginia and [REDACTED] in order to receive duplicate benefits from each state. However, the Defendant repeats this pattern once again in October when she submits a SNAP review in the state of WV attesting she was a resident of WV. Then a few weeks later the Defendant submitted a SNAP application in the state of [REDACTED] reopening her SNAP benefits in that state submitting verification of her [REDACTED] residency from a landlord who had also signed the February 2016 [REDACTED] lease. These actions in October and November along with the similar actions she took in June and July, establish a pattern which clearly show intent of the Defendant to make fraudulent statements or representations about her place of residence in order to receive multiple SNAP benefits simultaneously. The Defendant did not appear for the hearing, and as such could not dispute facts presented by the Movant.

The Movant showed by clear and convincing evidence that the Defendant made fraudulent statements or representations about her place of residence in order to receive multiple SNAP benefits simultaneously.

CONCLUSION OF LAW

Because the Defendant has been found to have made fraudulent statements or representations with respect to the place of her residence in order to receive multiple SNAP benefits simultaneously, the Movant must disqualify the Defendant from receipt of SNAP benefits for a period of 10 years.

DECISION

It is the ruling of the State Hearing Officer that the Defendant committed an Intentional Program Violation. The Defendant will be disqualified from participation in SNAP for a period of ten (10) years to begin effective December 1, 2017.

ENTERED this 15th day of November 2017.

Lori Woodward, State Hearing Officer