



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
203 East Third Avenue
Williamson, WV 25661

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

March 16, 2017



RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-3215

Dear Ms. [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,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

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

cc: Juna Woodall, Repayment Investigator

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

██████████,

Defendant,

v.

Action Number: 16-BOR-3215

**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 December 22, 2016. 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 Section 273.16. The hearing was convened on February 9, 2017.

The matter before the Hearing Officer arises from a request by the Department for a determination as to whether the Defendant has committed an Intentional Program Violation and thus should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for twelve months.

At the hearing, the Department appeared by Juna Woodall, Repayment Investigator. The Defendant did not appear. The participant was sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 Code of Federal Regulations §273.16
- M-2 Form ES-FS-5, Food Stamp (SNAP) Claim Determination
- M-3 Combined Application Form (CAF) and Rights and Responsibilities form, signed by Defendant and spouse on July 18, 2014
- M-4 Letter from Department to Defendant's ex-husband dated March 25, 2015, asking him to complete attached form regarding Defendant's daughter, completed and returned by ex-husband on March 31, 2015
- M-5 Letter from Department to high school of Defendant's daughter dated October 29, 2014, requesting school attendance information for Defendant's daughter, completed and returned by school guidance counselor on October 30, 2014

- M-6 Order from Circuit Court of ██████ County, WV, entered on December 9, 2008
- M-7 SNAP mail-in review form, signed by Defendant on December 1, 2014
- M-8 West Virginia Income Maintenance Manual (WV IMM) Chapter 1, §1.2.E
- M-9 WV IMM Chapter 20, §20.2
- M-10 WV IMM Chapter 20, §20.6
- M-11 Copy of IG-IFM-ADH-waiver, Waiver of Administrative Disqualification Hearing form, and IG-IFM-ADH-Ltr, Notice of Intent to Disqualify form, sent to Defendant on July 20, 2016

Defendant's Exhibits

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence during 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 Department's representative contended the Defendant committed an Intentional Program Violation and should be disqualified from SNAP for one year because she intentionally withheld the fact that her daughter, a member of her SNAP Assistance Group (AG), did not live in her household and had not done so since December 2008 or earlier. The Department's representative argued that because the Defendant did not report her correct household composition, her SNAP AG received \$1445 in benefits to which it was not entitled.
- 2) On December 9, 2008, ██████ County Circuit Court Judge ██████ entered an order permanently terminating the Defendant's parental rights to her daughter (Exhibit M-6).
- 3) On March 25, 2015, a Criminal Investigator for the WV DHHR sent the father of the Defendant's daughter a form (Exhibit D-4) asking him to verify that the daughter lived with him. The father returned the form on March 31, 2015, verifying that the Defendant's daughter lived with him and had done so since September 17, 2008.
- 4) On October 29, 2014, a Criminal Investigator for the WV DHHR sent a form to the school attended by the Defendant's daughter (Exhibit D-5), requesting information regarding the daughter's attendance. The school returned the form on October 30, 2014, verifying that the Defendant was not listed as the daughter's parent or guardian, emergency contact person or other relative.
- 5) On July 18, 2014, the Defendant completed a SNAP review, wherein she reported that her household included herself, her spouse, his son and her daughter, the child listed on the 2008 court order (Exhibit M-3).

- 6) On December 1, 2014, the Defendant completed a SNAP mail-in review, wherein she reported that her household consisted of herself, her husband, his son and her daughter (Exhibit M-7).

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WV IMM) Chapter 1.2.E 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.

WV IMM Chapter 2.2.B reads, "All SNAP AGs [Assistance Groups] must report changes related to eligibility and benefit amount at application and redetermination."

WV IMM Chapter 20.2 states that when an AG has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation or Intentional Program Violation claim. The claim is the difference between the allotment the client received and the allotment he should have received.

WV IMM Chapter 20.2.C.2 provides that once an IPV (Intentional Program Violation) is established, a disqualification penalty is imposed on the AG members who committed the IPV. The penalties are as follows: First Offense – one year disqualification; Second Offense – two years disqualification; Third Offense – permanent disqualification.

Pursuant to the Code of Federal Regulations 7 CFR Section 273.16, an Intentional Program Violation shall consist of a SNAP recipient having intentionally: 1. Made a false or misleading statement, or misrepresented, concealed or withheld facts; or 2. Committed any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system access device.

DISCUSSION

During SNAP reviews from July 2014 (Exhibit M-3) and December 2014 (Exhibit M-7), the Defendant reported that her household consisted of herself, her spouse, his son and her daughter. She obtained SNAP benefits based on this household composition.

The Department obtained information from the ██████ County, WV, Circuit Court that the Defendant's parental rights to her daughter were permanently terminated in December 2008 (Exhibit M-6.) The Department obtained information from the daughter's father that the daughter had lived with him since September 2008 (Exhibit M-4). The Department obtained attendance information from the daughter's high school indicating that the school did not list the Defendant as a parent or guardian, emergency contact person or other relative.

The Department provided clear and convincing evidence that the Defendant intentionally withheld information indicating her daughter did not live with her from July through December 2014, in order to obtain more SNAP benefits than her assistance group was entitled to receive.

CONCLUSIONS OF LAW

- 1) Pursuant to the Code of Federal Regulations and the Common Chapters Manual, the Defendant made false or misleading statements, or misrepresented, concealed or withheld facts, in order to receive SNAP benefits to which her assistance group was not entitled.
- 2) The Department presented clear and convincing evidence that the Defendant committed an Intentional Program Violation by not reporting her daughter did not live with her during the period of July 2014 through April 2015, in violation of WV IMM §1.2.E. The Department must impose a disqualification penalty.
- 3) The disqualification for a first offense IPV is one year.

DECISION

It is the ruling of the Hearing Officer that the Defendant committed an Intentional Program Violation. She will be disqualified from participating in SNAP for one year, beginning April 1, 2017.

ENTERED this 16th Day of March 2017.

**Stephen M. Baisden
State Hearing Officer**