

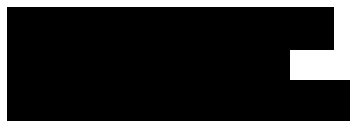


State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P.O. Box 1247
Martinsburg, WV 25402

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

January 23, 2018



RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-2794

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: April Stuckey, IFM, [REDACTED] Co. DHHR

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

████████████████████,

Defendant,

v.

ACTION NO.: 17-BOR-2794

**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 November 7, 2017. 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 11, 2018.

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) and therefore should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Movant appeared by April Stuckey, Repayment Investigator, Investigations and Fraud Management. The Defendant failed to appear resulting in the hearing being held in the Defendant's absence. Ms. Stuckey was sworn and the following documents were admitted into evidence:

Movant's Exhibits:

- M-1 SNAP Notice of QC [Quality Control] Error Findings and Benefit Recovery Referral
- M-2 West Virginia Income Maintenance Manual Chapter 1.2.E
- M-3 Food Stamp Claim Determination and information used for calculation determination
- M-4 U.S. Code of Federal Regulations, 7 CFR §273.16 (excerpt)
- M-7 Screen prints of Quality Control reviewer findings/statement entered in eRapids
- M-8 West Virginia Income Maintenance Manual Chapter 20.6.A
- M-9 Advance Notice of Administrative Disqualification Hearing and Waiver, dated October 26, 2017

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of the witness 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 (DHHR) alleged an act of IPV by the Defendant withholding information about the household composition in her assistance group (AG) resulting in an over-issuance of SNAP benefits from December 2016 through May 2017.
- 2) The Defendant was notified of the hearing by scheduling order sent on November 15, 2017. The Defendant failed to appear for the hearing or provide good cause for her failure to do so. In accordance to 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 is a recipient of SNAP benefits.
- 4) The Defendant's husband, [REDACTED], never moved to the state of West Virginia and, therefore, was not a member of the Defendant's household at the time of her SNAP application in December 2016. (Exhibits M-1 and M-7)
- 5) The Defendant included her husband at the time of her December 19, 2016 SNAP application. (Exhibit M-3)
- 6) The Defendant's act of intentionally including her husband in her household when, in fact, he was living in a different state, resulted in an over-issuance of SNAP benefits during the period of December 2016 through May 2017. (Exhibit M-3)

APPLICABLE POLICY

Code of Federal Regulations, 7 CFR §273.16, establishes 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 §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. Failure to fulfill this obligation may result in one or more of the following actions: denial of the application, closure of the active Assistance Group (AG), removal of the individual from the AG, repayment of benefits, and/or a reduction in benefits.

West Virginia Income Maintenance Manual §20(C)(2) defines an IPV and establishes that IPV's include: 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. Once an IPV has been established, a disqualification period must be imposed on the Assistance Group (AG) member who committed the violation.

West Virginia Income Maintenance Manual §9.1(A)(2) sets forth the penalties for individuals found guilty of an IPV as follows: First Offense, twelve (12) month disqualification; Second Offense, twenty-four (24) month disqualification; Third Offense, permanent disqualification.

DISCUSSION

Federal regulations define an IPV as making a false statement related to the acquisition of SNAP benefits. The Defendant reported that her husband was living in her household on her December 19, 2016 SNAP application. Based upon her information, SNAP benefits were issued to her based on an Assistance Group (AG) comprised of herself, her husband, and three children.

On March 31, 2017, a QC reviewer interviewed the Defendant. At the time of the interview, it was discovered that the Defendant's husband had not returned to West Virginia with the Defendant, and was not living in the household. IFM assigned the case to be investigated further. IFM determined that the Defendant had reported her husband in the household on her December 19, 2016 SNAP application. Because of the Defendant's misrepresentation of her household composition, there was an over-issuance of SNAP benefits from December 2016 to May 2017.

The Defendant did not appear for the hearing, and as such could not dispute facts presented by the Movant.

The Defendant clearly made a false statement at her SNAP application, which meets the definition of an IPV. The Movant established by clear and convincing evidence that the intent of the Defendant was to receive SNAP benefits for which she would not have otherwise been entitled.

CONCLUSIONS OF LAW

- 1) The act of making a false statement to obtain SNAP benefits constitutes an Intentional Program Violation.
- 2) The Movant provided evidence that the Defendant's husband had not moved to West Virginia and was not living in the Defendant's household at the time of her December 2016 SNAP application.
- 3) The Defendant made a false statement on her December 2016 SNAP application by reporting her husband was living in her household.

- 4) The penalty for a first offense Intentional Program Violation is exclusion from participation in SNAP for twelve (12) months.

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 twelve (12) months to begin effective March 1, 2018.

ENTERED this 23rd day of January 2018.

Lori Woodward, State Hearing Officer