



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

Bill J. Crouch  
Cabinet Secretary

BOARD OF REVIEW  
Raleigh District DHHR  
407 Neville Street  
Beckley, WV 25801

M. Katherine Lawson  
Inspector General

February 6, 2018

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 17-BOR-2812

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,

Kristi Logan  
State Hearing Officer  
Member, State Board of Review

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

cc: Anisha Eye, [REDACTED] County DHHR

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

████████████████████,

**Defendant,**

v.

**Action Number: 17-BOR-2812**

**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 13, 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 23, 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 and should therefore be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for twelve (12) months.

At the hearing, the Movant appeared by Anisha Eye, Repayment Investigator. The Defendant failed to appear. The Movant's representative was sworn and the following documents were admitted into evidence.

**Movant's Exhibits:**

- M-1      Hearing Summary
- M-2      SNAP Claim Determination Forms
- M-3      SNAP Claim Calculation Sheets
- M-4      SNAP Allotment Determination Screen Prints
- M-5      Non-Financial Eligibility Determination Screen Prints
- M-6      SNAP Issuance History-Disbursement Screen Prints
- M-7      Case Members History Screen Print
- M-8      Case Comments from May 2014 through June 2017

- M-9 Statement from [REDACTED] dated October 18, 2017
- M-10 Statement from [REDACTED] dated October 18, 2017
- M-11 Final Adoption Order from Circuit Clerk of [REDACTED] County, West Virginia dated June 5, 2015 (excerpt)
- M-12 Client Contact Reports from July 2014 through October 2014
- M-13 SNAP Review Form (CSLE) dated August 1, 2014
- M-14 SNAP 6 or 12 Month Contact Form (PRC2) dated February 6, 2015
- M-15 Medicaid Review Form (MREV) dated April 20, 2015
- M-16 SNAP and Medicaid Review Form (CSLR) dated August 31, 2015
- M-17 SNAP 6 or 12 Month Contact Form (PRC2) dated January 26, 2016
- M-18 Advance Notice of Administrative Disqualification Hearing Waiver dated October 19, 2017
- M-19 West Virginia Income Maintenance Manual §§1.2(E) and 20.1; Code of Federal Regulations – 7 CFR §273.16

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 December 7, 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 submitted a SNAP review form to the Movant on August 1, 2014. She reported that her household consisted of herself, her husband and their daughter, [REDACTED] (Exhibit M-8 and M-13).
- 4) The Defendant submitted a SNAP contact form on February 6, 2015. She reported that her household consisted of herself, her husband and their daughter, [REDACTED] (Exhibit M-8 and M-14).
- 5) The Defendant submitted a Medicaid review form on April 20, 2015. She reported that her household consisted of herself, her husband and their daughter, [REDACTED] (Exhibit M-8 and M-15).

- 6) The Defendant submitted a SNAP and Medicaid review form on August 31, 2015. She reported that her household consisted of herself, her husband and their daughter, [REDACTED] (Exhibit M-8 and M-16).
- 7) The Defendant submitted a SNAP contact form on January 26, 2016. She reported that she and her daughter had moved in with [REDACTED] (Exhibit M-8 and M-17).
- 8) The Movant discovered that the Defendant's daughter had been removed from her custody by Child Protective Services in July 2014 and was placed with [REDACTED], who adopted [REDACTED] in June 2015 (Exhibit M-9, M-10, M-11 and M-12).

### **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 §1.2.4 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

West Virginia Income Maintenance Manual §11.2.3.B states that IPV's 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 states that persons who have been found guilty of an IPV are disqualified as follows: First offense, One year disqualification; Second offense, Two year disqualification; and Third offense, Permanent disqualification.

West Virginia Income Maintenance Manual §3.2.A.1 states the SNAP assistance group (AG) must include all eligible individuals who both live together and purchase food and prepare meals together. When an AG member is absent or is expected to be absent from the home for a full calendar month, he or she is no longer eligible to be included in the AG, and must be removed after advance notice.

## **DISCUSSION**

Federal regulations define an Intentional Program Violation as making a false statement related to the acquisition of SNAP benefits.

The Defendant made false statements on her August 2014 and subsequent SNAP review forms by reporting that her daughter, [REDACTED], resided with her, when she had been removed from the Defendant's custody in July 2014.

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

## **CONCLUSIONS OF LAW**

- 1) The Defendant made false statements on her August 2014 and subsequent review forms by reporting that her daughter resided in her home.
- 2) The Movant provided irrefutable evidence that the Defendant's daughter was removed from her custody in July 2014 and has not resided with her since.
- 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 SNAP for 12 months, effective March 2018.

**ENTERED this 6<sup>th</sup> day of February 2018**

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**Kristi Logan  
State Hearing Officer**