



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 24, 2018

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 17-BOR-2819

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: Christina Saunders, IFM, [REDACTED] Co. DHHR

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

████████████████████,

**Defendant,**

v.

**ACTION NO.: 17-BOR-2819**

**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 14, 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 10, 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 Christina Saunders with Investigations and Fraud Management. The Defendant failed to appear resulting in the hearing being held in the Defendant's absence. Ms. Saunders was sworn and the following documents were admitted into evidence:

**Movant's Exhibits:**

- M-1 Benefit Recovery Referral #6000248986
- M-2 West Virginia Income Maintenance Manual (IMM) Chapter 1.2.4
- M-3 SNAP Claim Determination form and information used for calculation determination
- M-4 7 CFR §273.16 (excerpt)
- M-5 inROADS application form for SNAP dated May 5, 2015
- M-6 PRC2 SNAP review form dated November 3, 2015
- M-7 CSLR SNAP review form dated May 16, 2016
- M-8 PRC2 SNAP review form dated November 21, 2016
- M-9 Front-End Fraud Unit Investigative Findings, witness statements, and school enrollment verifications

- M-10 Bureau of Employment Programs, Employee Wage Data information
- M-11 IMM Chapter 11.6.1
- M-12 IMM Chapter 11.2.3.B
- M-13 Electronic Disqualified Recipient System (eDRS)
- M-14 Advance Notice of Administrative Disqualification Hearing and Waiver, dated November 3, 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 June 2015 through October 2017.
- 2) The Defendant was notified of the hearing by scheduling order sent by US Postal Service first class mail 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 applied for SNAP and Medicaid benefits on May 15, 2015. (Exhibit M-5)
- 4) A telephone interview was conducted on May 21, 2015. The Defendant reported herself and her three children, ■■■, ■■■ and ■■■, in her AG. She also reported she had no income. Based on the information the Defendant provided, SNAP benefits were approved. (Exhibit M-3)
- 5) On November 3, 2015, the DHHR received the Defendant's completed PRC-2, no interview review form. The Defendant again reported she had no income and the AG consisted of herself and her three children. SNAP benefits were continued based on the information the Defendant provided. (Exhibit M-6)
- 6) In a SNAP review dated May 15, 2016, the Defendant again reported zero income and that her AG included herself and her three children. The Respondent approved SNAP benefits based on the information provided by the Defendant. (Exhibit M-7)
- 7) The DHHR received a completed PRC-2 on November 21, 2016 from the Defendant reporting zero income and her three children in her AG. SNAP benefits were continued based on the Defendant's information. (Exhibit M-8)

- 8) The Defendant's three children, [REDACTED], [REDACTED] and [REDACTED] have been residing with their father and attending school in the state of [REDACTED] since January 2015. (Exhibit M-9)
- 9) The Defendant had been receiving wages from [REDACTED] since the second quarter of 2015 through the second quarter of 2016, and from the first quarter of 2017 through the third quarter of 2017. She has also received income from [REDACTED] [REDACTED] (Exhibit M-10)
- 10) The Movant has intentionally made false statements on her SNAP application and reviews by reporting her three children, [REDACTED], [REDACTED] and [REDACTED] in her AG and by reporting she had no income, resulting in an over-issuance of SNAP benefits from June 2015 through October 2017.
- 11) The Defendant has no prior disqualifications from participating in SNAP benefits. (Exhibit M-13)

### **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).

IMM §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.

IMM §8.2, requires a person to live within the borders of West Virginia, to be eligible for benefits. An individual remains a resident of the former state until he arrives in West Virginia with the intention of remaining indefinitely. Therefore, intent to establish or abandon residency must be known before the state of residence is determined.

IMM §10.3(DD) states earnings from employment are used in determining SNAP eligibility.

IMM §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.

IMM §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 on her May 2015 SNAP application and on all her subsequent SNAP reviews that her three children, [REDACTED], [REDACTED] and [REDACTED] were living with her, and that she had no income. Based on the information she provided, SNAP benefits were issued to her.

The Movant, through its investigation, found that the three children the Defendant had been claiming in her AG had actually been living with their father and attending school in the state of [REDACTED] since January 2015. The Movant also found through a Bureau of Employment Programs Employee Wage Data match that the Defendant has had income from the [REDACTED] since the second quarter of 2015, and received income from [REDACTED]

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

The Defendant clearly made false statements at her SNAP application and reviews, which meets the definition of an IPV. The Movant established by clear and convincing evidence the intent of the Defendant to provide false statements 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 three children, [REDACTED], [REDACTED] and [REDACTED], had been living with their father and attending school in the state of [REDACTED] since February 2015.
- 3) The Movant provided evidence that the Defendant had earned income which she did not report.
- 3) The Defendant made false statements on her SNAP application and reviews from May 2015 to May 2017 by reporting her three children, [REDACTED], [REDACTED] and [REDACTED], were living in her household, and that she her AG had zero income.
- 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 24<sup>th</sup> day of January 2018.

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**Lori Woodward, State Hearing Officer**