



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

Jolynn Marra
Interim Inspector General

May 6, 2020

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 20-BOR-1367

Dear Mr. [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: 20-BOR-1367

**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 March 10, 2020. 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 April 21, 2020.

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 witness was sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 Hearing Summary
- M-2 Case Members History Screen Prints
- M-3 SNAP Issuance History Screen Prints
- M-4 SNAP Allotment Determination Screen Prints
- M-5 Non-Financial Eligibility Determination Screen Prints
- M-6 SNAP Claim Determination Form
- M-7 SNAP Claim Calculation Sheets
- M-8 Request for Replacement for Food Purchased with SNAP Benefits dated June 17, 2019
- M-9 SNAP 6-or12-Month Contact Form dated September 27, 2019, Case Number 5001377951
- M-10 SNAP and Medicaid Review Form dated October 18, 2019, Case Number 4005522742

- M-11 Low Income Energy Assistance Program (LIEAP) Application dated December 10, 2019, Case Number 5001377951
- M-12 Low Income Energy Assistance Program (LIEAP) Application dated December 11, 2019, Case Number 4005522742
- M-13 Marriage Certificate dated June 3, 2019
- M-14 Employment Information for [REDACTED] and Defendant from Equifax.com
- M-15 Case Comments for Case Numbers 5001377951 and 4005522742
- M-16 Waiver of Administrative Disqualification Hearing (unsigned copy)
- M-17 Advance Notice of Administrative Disqualification Hearing Waiver dated February 25, 2020
- M-18 West Virginia Income Maintenance Manual §§1.2.4, 11.2
- M-19 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 his household composition and requested that a twelve (12) month penalty be imposed against him.
- 2) The Defendant was notified of the hearing by scheduling order mailed on March 10, 2020. The Defendant failed to appear for the hearing or provide good cause for his 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 October 18, 2019. The Defendant listed his address as [REDACTED] and that he was the only person residing in his household (Exhibit M-10).
- 4) The Defendant submitted an application for LIEAP benefits on December 11, 2019. The Defendant reported that he was the only member of his household (Exhibit M-12).
- 5) On December 20, 2019, the Defendant and [REDACTED] reported that they were married on June 3, 2019 and that she started working in November 2019 (Exhibits M-13 and M-15).
- 6) Ms. [REDACTED] reported residing at [REDACTED] on her September 27, 2019 SNAP review and December 10, 2019 LIEAP application (Exhibits M-9 and M-11).

- 6) The Movant contended that the Defendant and Ms. [REDACTED] have been residing together since their marriage in June 2019 and Ms. [REDACTED] and her income should have been included in the Defendant's SNAP case.

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 IPVs 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.2 states the SNAP assistance group (AG) must include spouses who are legally married to each other under provisions of state law or those moving to West Virginia from states that recognize their relationship as a legal marriage.

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 his October 2019 SNAP review and December 2019 LIEAP application by reporting that he was the only member of his household. The Defendant and [REDACTED] were married in June 2019 and had been residing together since that time. Policy requires that spouses residing together must be included in the same SNAP AG, and the result of the Defendant's willful misrepresentation of his household composition resulted in an overpayment of SNAP benefits for which he was not entitled to receive. The Defendant's actions meet the definition of an Intentional Program Violation.

CONCLUSIONS OF LAW

- 1) The Defendant made false statements on his October 2019 SNAP review and December 2019 LIEAP application by reporting he was the only member of his household.
- 2) The Movant provided clear and convincing evidence that the Defendant and [REDACTED] had been residing together since their marriage in June 2019.
- 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, he will be excluded from participation in SNAP for 12 months, effective June 1, 2020.

ENTERED this 6th day of May 2020.

**Kristi Logan
State Hearing Officer**