



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Bill J. Crouch
Cabinet Secretary

Jolynn Marra
Interim Inspector General

September 30, 2020

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 20-BOR-1888

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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

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

cc: Emily Shumate, WVDHHR

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

██████████,

Defendant,

v.

Action Number: 20-BOR-1888

**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 July 21, 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 Section 273.16. The hearing was convened on August 25, 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 (IPV) and should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Movant appeared by Emily Shumate, Repayment Investigator, WVDHHR. The Defendant failed to appear.

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

Movant's Exhibits:

- M-1 ADH Hearing Summary
- M-2 Case Members History
- M-3 SNAP Issuance History-Disbursement history
- M-4 Food Stamp Allotment Determination history
- M-5 Non-Financial Eligibility Determination history
- M-6 Case Comments history
- M-7 Case redetermination form dated October 15, 2019
- M-8 PRC-2 form signed by Defendant on October 27, 2019
- M-9 SNAP/Medicaid application dated on November 1, 2019
- M-10 Waiver of Administrative Disqualification Hearing form
- M-11 Advance Notice of Administrative Disqualification Hearing Waiver dated
June 25, 2020
- M-12 West Virginia Income Maintenance Manual Chapters 1.2.4, 11.2 and 11.6.1

- M-13 Code of Federal Regulations Section 273.16
M-14 Medicaid verification for Defendant's child from Movant's FACTS computer system

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) A request for an Administrative Disqualification Hearing was received by the Board of Review from the West Virginia Department of Health and Human Resources, hereinafter referred to as Movant, on July 21, 2020.
- 2) The Movant contends that the Defendant has committed an Intentional Program Violation (IPV) and recommends that the Defendant be disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, for a period of 12 months.
- 3) Notification of the August 25, 2020 hearing was mailed to the Defendant on or about July 21, 2020 via First Class U.S. Mail as the Defendant was an active recipient of Department benefits.
- 4) The hearing convened as scheduled at 10 a.m. on August 25, 2020, and as of 10:15 a.m., the Defendant failed to call in for the telephone hearing. As set forth in the Code of Federal Regulations found at §7 CFR 273.16 (e) (4), and the West Virginia Department of Health and Human Resources Common Chapters Manual Chapter 740.20, the hearing was conducted without the Defendant in attendance.
- 5) The Hearing Officer discovered subsequent to the hearing that the July 21, 2020 Scheduling Order - sent to the Appellant's last reported address of [REDACTED] - had been returned by the U.S. Postal Service as undeliverable with no forwarding address. As the Scheduling Order was not delivered and the Movant had no other known address for the Defendant, the Hearing Officer rescheduled the hearing for September 29, 2020 and made a second attempt - in a Scheduling Order dated August 26, 2020 - to notify the Defendant at the [REDACTED] address.
- 6) The Defendant failed to appear on September 29, 2020 and the second Scheduling Order had not been returned as undeliverable as of the hearing date. The Movant indicated that the Department received returned mail for the Defendant on September 3, 2020 with a return mail sticker listing an address of [REDACTED].

- 7) The Defendant's last reported contact with the Movant was in April 2020, at which time she reported her mailing address as [REDACTED]. Records indicate that the Defendant has never reported an address change to the Movant.
- 8) The Movant's Investigations and Fraud Management (IFM) Unit received a referral on April 29, 2020 indicating that the Defendant's infant ([REDACTED]), born on September 7, 2019, had been removed from her custody by the Movant's Child Protective Services Unit in September 2019.
- 9) The Defendant submitted a Medicaid redetermination form to the Movant on October 15, 2019, a PRC-2 case reporting form on October 21, 2019 and a SNAP/Medicaid application on November 1, 2019 reporting that [REDACTED] was residing in her household (M-7, M-8 and M-9).
- 10) On December 2, 2019, the Defendant completed a SNAP interview and requested that [REDACTED] be added to her case; however, the child was already listed as a household member (M-6).
- 11) As a result of the Defendant's failure to correctly report her child's circumstances, she received \$905 in SNAP benefits to which she was not entitled for the period of November 2019 through May 2020.

APPLICABLE POLICY

Code of Federal Regulations Section 273.16.c.1 (M-13) states that an Intentional Program Violation includes committing an 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 as part of an automated benefit delivery system (access device).

West Virginia Income Maintenance Manual §11.2.3.B (M-12) 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 §1.2.4 (M-12) states that it is the client's responsibility to provide complete and accurate information about his/her circumstances so that the worker is able to make a correct determination about his/her eligibility.

DISCUSSION

Regulations specify that an Intentional Program Violation includes committing an 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 as part of an automated benefit delivery system (access device). IPV's include making false or misleading statements, misrepresenting facts, or concealing or withholding information. An individual found to have committed an IPV is ineligible to receive SNAP benefits for a specified time, depending on the number of offenses committed.

The Defendant's child was born on [REDACTED], but was removed from her custody by Child Protective Services on or about [REDACTED]. The Movant's witness, Repayment Investigator Emily Shumate, testified that Economic Services Unit case comments indicate the child was removed from the Defendant's custody in December 2019 (M-6). However, Ms. Shumate stated that the referral submitted to the Investigations and Fraud Management Unit indicated the child was removed from the Defendant's custody in September 2019. Ms. Shumate testified that a follow-up check of the West Virginia Families and Children Tracking System (FACTS) system - the computer system utilized by the Movant's Child Protective Services Unit - confirms the child's eligibility date for Medicaid through social services started in September 2019.

The Defendant completed a case redetermination on October 15, 2019 and reported that the newborn was residing in her household. In addition, she reported that the child was in the household on a November 1, 2019 SNAP and Medicaid application, and attempted to add the child to the case on December 2, 2019 during a SNAP interview.

As the Movant's IFM Unit determined that the child was in CPS custody in September 2019, the Defendant misrepresented her household circumstances.

CONCLUSIONS OF LAW

- 1) An Intentional Program Violation can be established for SNAP purposes when an individual misrepresents case circumstances.
- 2) The Defendant's child was born on [REDACTED]
- 3) The Defendant's child was removed from her custody by the Movant's CPS Unit in September 2019.
- 4) The Defendant indicated that the child was in her home during three separate contacts with the Movant in October, November and December 2019.

- 5) The Defendant committed a first-offense IPV by misrepresenting the number of individuals in her household.
- 6) The penalty for a first-offense Intentional Program Violation is exclusion from participation in SNAP for 12 months.

DECISION

The State Hearing Officer finds 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 November 1, 2020.

ENTERED this 30th Day of September 2020.

**Pamela L. Hinzman
State Hearing Officer**