



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

Bill J. Crouch
Cabinet Secretary

BOARD OF REVIEW
Berkeley County DHHR
PO Box 1247
Martinsburg, WV 25402

Jolynn Marra
Interim Inspector General

November 16, 2020

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 20-BOR-2275

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, J.D.
Certified State Hearing Officer
Member, State Board of Review

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

cc: Emily Shumate, IFM, [REDACTED] Co. DHHR

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

████████████████████,

Defendant,

v.

Action No: 20-BOR-2275

**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 September 30, 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 November 5, 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 therefore should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Movant appeared by Emily Shumate, Investigations and Fraud Management. The Defendant failed to appear. Ms. Shumate was sworn, and the following documents were admitted into evidence:

Movant's Exhibits:

- M-1 ADH Hearing Summary
- M-2 Case Members History (AQCM) screen print
- M-3 SNAP Issuance History – Disbursement (IQFS) screen print, September 3, 2019 – August 3, 2020
- M-4 Food Stamp Allotment Determination (EFAD), screen print, May 1 – July 31, 2020, April 2020, March 2020
- M-5 Non-Financial Eligibility Determination (EEND) screen print, May 1 – July 31, 2020, April 2020, March 2020
- M-6 Case comments screen print from Defendant's eRAPIDS case, January 16, 2020 – September 25, 2020
- M-7 Completed review form (CSLR) and Rights and Responsibility signed and dated February 28, 2020

- M-8 Waiver of Administrative Disqualification Hearing (ig-ifm-ADH-waiver)
- M-9 Advance Notice of Administrative Disqualification Hearing Waiver dated August 18, 2020 (ig-ifm-ADH Ltr)
- M-10 West Virginia Income Maintenance Manual (WV IMM), Chapters 1 and 11, §§1.2.4, 11.2 and 11.6.1
- M-11 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 Assistance Group (AG) members on her February 28, 2020 SNAP review form. (Exhibit M-7) The Movant requested that an IPV penalty of 12 months be imposed against the Defendant.
- 2) The Defendant was notified of the hearing by scheduling order mailed on October 2, 2020. The Defendant failed to appear for the hearing or provide good cause for her failure to do so. In accordance with 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 was a recipient of SNAP benefits whose three children [REDACTED], [REDACTED] and [REDACTED] were removed from her household on January 28, 2020, by Child Protective Services (CPS) and placed in foster care. (Exhibit M-1)
- 4) The Defendant completed a review for SNAP recertification on February 28, 2020, falsely reporting that her three children [REDACTED], [REDACTED] and [REDACTED] were in her household. (Exhibit M-7)
- 5) The Defendant's false statement resulted in an over-issuance of SNAP benefits.

APPLICABLE POLICY

Code of Federal Regulations, 7 CFR §273.16, mandates that an Intentional Program Violation shall consist of a SNAP recipient having intentionally: 1) Made a false or misleading statement, or misrepresented, concealed or withheld facts; or 2) Committed any act that constitutes a violation of the Food Stamp Act of 1977, 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 used as part of an automated benefit delivery system (access device). (See also, WV IMM, Chapter 11, §11.2.3.B)

Individuals found to have committed an Intentional Program Violation through an Administrative Disqualification Hearing shall be ineligible to participate in the Supplemental Nutrition Assistance Program for twelve months for the first intentional Program violation. (See, 7 CFR §273.16(b)(1)(i) and WV IMM, Chapter 3, §3.2.1.B.5)

Code of Federal Regulations, 7 CFR §273.16(e)(6) states the determination of an Intentional Program Violation will be based on clear and convincing evidence that demonstrates that the household member committed and intended to commit an Intentional Program Violation as defined above.

DISCUSSION

Federal regulations define an IPV as making a false statement related to the acquisition of SNAP benefits. The Defendant completed her review for SNAP recertification on February 28, 2020 reporting that her three children ■■■, ■■■ and ■■■ were in her household. The Defendant's monthly SNAP allotment was calculated based upon the information she provided.

The Movant's Investigations and Fraud Management (IFM) worker, Emily Shumate, investigated a referral regarding the removal of the Defendant's three children by Child Protective Services (CPS) on January 28, 2020. Ms. Shumate determined that the Defendant's three children ■■■, ■■■ and ■■■ were reported as household members on the Defendant's February 28, 2020 review for SNAP recertification, when in fact they remained out of the Defendant's household. Based upon her findings, Ms. Shumate requested an Administrative Disqualification Hearing to establish a first offense SNAP IPV against the Defendant.

The Defendant was notified of the ADH scheduling and failed to appear at the hearing to contest the Movant's evidence. Pursuant to federal regulations, the hearing was held in the Defendant's absence.

The evidence presented showed that the Defendant's three children, ■■■, ■■■ and ■■■, were removed by Child Protective Services on January 28, 2020 and were placed in foster care. The Defendant completed her SNAP recertification review form (CSLE) and interview on February 28, 2020. The Defendant represented that her household included her children who had been removed from her household the previous month. Ms. Shumate testified that she determined that the children remained out of the Defendant's household. SNAP benefits were issued to the Defendant based upon this misrepresentation of her household composition.

The Defendant clearly made a false statement on her February 28, 2020 SNAP review which meets the definition of an IPV. The Movant established by clear and convincing evidence the intent of the Defendant to provide a false statement to receive SNAP benefits for which she would not have otherwise been entitled.

CONCLUSIONS OF LAW

- 1) The Defendant's three children [REDACTED], [REDACTED] and [REDACTED] were removed from the Defendant's household by CPS on January 28, 2020 and placed in foster care.
- 2) On February 28, 2020, the Defendant completed a review for SNAP recertification intentionally including the absent children in her household.
- 3) The Defendant's intentional false statement meets the definition of an IPV.
- 4) As this is the Defendant's first IPV offense, she is subject to a one-year disqualification from participation in SNAP.

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 one year to begin effective December 1, 2020.

ENTERED this 16th day of November 2020.

Lori Woodward, Certified State Hearing Officer