



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

Bill J. Crouch  
Cabinet Secretary

Board of Review  
416 Adams Street Suite 307  
Fairmont, WV 26554  
304-368-4420 ext. 30018  
[Tara.B.Thompson@wv.gov](mailto:Tara.B.Thompson@wv.gov)

Jolynn Marra  
Interim Inspector General

December 9, 2020

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 20-BOR-2302

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,

Tara B. Thompson, MLS  
State Hearing Officer  
Member, State Board of Review

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

cc: Wanda Morgan, Investigations and Fraud Management

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

██████████,

**Defendant,**

v.

**Action Number: 20-BOR-2302**

**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 (ADH) for ██████████ requested by the Movant on October 2, 2020. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' (DHHR) Common Chapters Manual and Federal Regulations at 7 CFR § 273.16. The hearing was convened on November 12, 2020.

The matter before the Hearing Officer arises from a request by the Movant for a determination as to whether the Defendant committed an Intentional Program Violation (IPV) should therefore be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for twelve (12) months.

At the hearing, the Movant appeared by Wanda Morgan (Ms. Morgan), Investigations and Fraud Management. The Defendant failed to appear. Ms. Morgan was sworn and the following documents were admitted into evidence.

**Movant's Exhibits:**

- M-1 DHHR Notice, dated October 30, 2020
- M-2 Administrative Disqualification Hearing (ADH) Hearing Summary
- M-3 eRAPIDS Case Summary, printed August 21, 2020
- M-4 eRAPIDS Case Benefit Summary, printed August 21, 2020
- M-5 eRAPIDS Case Comments, dated March 31, 2018 through June 4, 2019
- M-6 inROADS SNAP application, submitted May 19, 2019
- M-7 eRAPIDS Case Comments, dated July 13 through November 8, 2019
- M-8 DHHR SNAP 6 or 12 Month Contact Form, scanned November 1, 2019
- M-9 eRAPIDS Case Comments, dated December 12, 2019 through January 22, 2020
- M-10 eRAPIDS SNAP Budget pages, printed August 21, 2020
- M-11 Non-Financial Eligibility Determination pages, printed October 30, 2020
- M-12 Front-End Fraud Unit Investigation Findings (FEFU), dated January 21, 2020
- M-13 Written Statement, dated December 5, 2019

- M-14 DHHR Information requests, dated November 18, 2019; ██████████ Schools Attendance Verification forms
- M-15 Family Court of ██████████, West Virginia records
- M-16 Case Narrative
- M-17 Benefit Recovery Referral, dated January 21, 2020
- M-18 DHHR Notices, dated August 21 and September 1, 2020
- M-19 West Virginia Income Maintenance Manual (WVIMM) §§ 1.2.4, 2.2.1.C, 3.2.1.A

**Defendant's Exhibits:**

None

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) From May 29, 2019 through February 2, 2020, the Defendant was a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits for a four-person Assistance Group (AG), which included the Defendant, ██████████ (Mr. ██████████), and the Defendant's two minor daughters, ██████████ and ██████████ (Exhibits M-4 through M-9).
- 2) The Defendant's minor daughters, ██████████ and ██████████, have resided with their father, ██████████, full time with no overnight visits to the Defendant's residence, since February 7, 2013 (Exhibits M-12 through M-15).
- 3) On May 19, 2019, the Defendant submitted an application for SNAP benefits for a four-person AG—which included children ██████████ and ██████████ (Exhibits M-5 and M-6).
- 4) On November 1, 2019, the Defendant submitted a SNAP Interim Contact Form and reported no changes to the four-person AG—which included children ██████████ and ██████████ (Exhibits M-7 and M-8).
- 5) On May 19 and November 1, 2020, the Defendant certified, by signature, that all information was true and correct (Exhibits M-6 and M-8).
- 6) During her SNAP eligibility interviews on May 20 and November 6, 2019, the Defendant failed to advise the Movant that children ██████████ and ██████████ were not members of her household (Exhibits M-5 and M-7).
- 7) The Defendant had no previous history of an Intentional Program Violation (IPV).

## APPLICABLE POLICY

### **West Virginia Income Maintenance Manual (WVIMM) § 1.2.4 Client Responsibility provides in part:**

The client's responsibility is to provide complete and accurate information about his circumstances so that the Worker is able to make a correct determination about his eligibility.

### **WVIMM § 2.2.1.C Prolonged Absence from the Home provides in part:**

Regardless of the reason for the absence, any person expected to be absent from the home for a full calendar month or more is not eligible to be included in the AG. Shorter absences do not affect eligibility. This policy applies to visiting, obtaining vocational training or education, and obtaining medical care. This policy applies to in-state and out-of-state travel.

Although an individual may meet the residency requirement, he may not be eligible to be included in the AG. Refer to Chapter 3 for specific requirements about who may be included in the AG.

### **WVIMM §§ 3.2.1.A and 3.2.1.A.4 Who Must Be Included provides in part:**

The SNAP Assistance Group (AG) must include all eligible individuals who both live together and purchase food and prepare meals together.

### **Code of Federal Regulations 7CFR § 273.16(a)(1) provides in part:**

Administrative disqualification procedures should be initiated by the State agency in cases in which the State agency has sufficient documentary evidence to substantiate that an individual has intentionally made one or more acts of intentional Program violation as defined in paragraph (c) of this section.

### **Code of Federal Regulations 7 CFR § 273.16(b)(13) provides in part:**

The disqualification period shall begin no later than the second month which follows the date the individual receives written notice of the disqualification. The disqualification period must continue uninterrupted until completed regardless of the eligibility of the disqualified individual's household.

### **Code of Federal Regulations 7CFR §§ 273.16(c)-273.16(c)(1) provide in part:**

An intentional program violation is defined as an individual having intentionally made a false or misleading statement, or misrepresented, concealed, or withheld facts.

**Code of Federal Regulations 7CFR §273.16(e)(4) provides in part:**

If the household member or its representative cannot be located or fails to appear at a hearing initiated by the State agency without good cause, the hearing shall be conducted without the household member being represented. Even though the household member is not represented, the hearing official is required to carefully consider the evidence and determine if intentional Program violation was committed based on clear and convincing evidence.

**DISCUSSION**

The Movant petitioned the Board of Review for an Administrative Disqualification Hearing (ADH). Further, the Movant requested the Defendant be disqualified from SNAP benefits for a 12-month penalty period and an IPV be established. The Defendant argued that the Defendant intentionally misrepresented that her children resided in her home for the purpose of receiving SNAP benefits. The Defendant had to prove by clear and convincing evidence that the Defendant's children [REDACTED] and [REDACTED] should not have been included in the Defendant's AG and that the Defendant intentionally misrepresented information for the purpose of receiving SNAP benefits. The Defendant did not appear to refute the Movant's evidence.

The evidence verified that the Appellant's children, [REDACTED] and [REDACTED], do not live with, purchase food, and prepare meals with the Defendant. The policy requires that for individuals, including children, to be in the AG together, all individuals must live together and purchase food and prepare meals together.

The evidence verified that although children [REDACTED] and [REDACTED] did not live with her, the Defendant intentionally included them in her household composition when seeking eligibility for SNAP benefits on her May 19 and November 1, 2019 SNAP application and Interim Contact Report. Further, the Defendant participated in SNAP eligibility interviews on May 20 and November 6, 2019 and failed to report that children [REDACTED] and [REDACTED] were not members of her household.

**CONCLUSIONS OF LAW**

- 1) The evidence verified that the Defendant's children, [REDACTED], and [REDACTED], do not live with, purchase food, and prepare meals with the Defendant.
- 2) The Defendant committed an Intentional Program Violation (IPV) by intentionally making false statements and misrepresenting facts regarding her household composition for the purpose of receiving SNAP benefits.
- 3) The Defendant had no previous history of an IPV penalty; therefore, a first offense 12-month SNAP disqualification penalty must be imposed.

**DECISION**

It is the finding of this State Hearing Officer that the Defendant committed an Intentional Program Violation. The Defendant will be disqualified from participation in the Supplemental Nutrition Assistance Program for twelve (12) months, effective January 1, 2021.

**ENTERED this 9<sup>th</sup> day of December 2020.**

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**Tara B. Thompson, MLS  
State Hearing Officer**