



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

December 15, 2020



RE: [REDACTED] v. WV DHHR  
ACTION NO.: 20-BOR-2450

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,

Kristi Logan  
Certified State Hearing Officer  
Member, State Board of Review

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

cc: Debra Carey, [REDACTED] County DHHR

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

██████████,

**Defendant,**

v.

**Action Number: 20-BOR-2450**

**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 October 28, 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 December 1, 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 Debra Carey, Investigator. The Defendant appeared failed to appear. The witness was sworn and the following documents were admitted into evidence.

**Movant's Exhibits:**

- M-1 Hearing Summary
- M-2 Benefit Recovery Referral Screen Print
- M-3 Application for Benefits and Rights and Responsibilities Form dated June 4, 2020
- M-4 Case Comments from June 4, 2020 to July 28, 2020
- M-5 SNAP Issuance History-Disbursement Screen Print
- M-6 SNAP Claim Determination Form, Benefit Recovery Referral Screen Print, SNAP Claim Calculations Sheets, and SNAP Allotment Determination Screen Prints
- M-7 Advance Notice of Administrative Disqualification Waiver dated October 5, 2020
- M-8 Waiver of Administrative Disqualification (unsigned copy)
- M-9 West Virginia Income Maintenance Manual §1.2.4

- M-10 West Virginia Income Maintenance Manual §3.2.1.A
- M-11 West Virginia Income Maintenance Manual §11.2
- M-12 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 household composition and requested that a twelve (12) month penalty be imposed against her.
- 2) The Defendant was notified of the hearing by scheduling order mailed on October 30, 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 applied for SNAP benefits on June 4, 2020 for herself and her daughter, [REDACTED] (Exhibit M-3).
- 4) SNAP benefits were approved for an assistance group of two (2) based upon the information provided by the Defendant (Exhibit M-5).
- 5) The Movant discovered that [REDACTED] had been in custody of Child Protective Services since October 29, 2019.
- 6) The Movant contended that by falsely reporting her household composition at application, the Defendant received an overpayment of SNAP of \$306 for which she was not entitled to receive (Exhibit M-6).

### **APPLICABLE POLICY**

Code of Federal Regulations, 7 CFR §273.16, states 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 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
- Third offense - permanent disqualification

West Virginia Income Maintenance Manual §3.2.A.1 states the SNAP assistance group (AG) must include all eligible individuals who both live together and purchase food and prepare meals together. When an AG member is absent or is expected to be absent from the home for a full calendar month, he or she is no longer eligible to be included in the AG and must be removed after advance notice.

### **DISCUSSION**

Federal regulations define an Intentional Program Violation as making a false statement related to the acquisition of SNAP benefits. An individual who is found to have committed an Intentional Program Violation is disqualified from participation in SNAP.

The Defendant made a false statement on the June 4, 2020 SNAP application by reporting [REDACTED] as residing in her household when she had been removed from the Defendant's custody on October 29, 2019. The Defendant's actions meet the definition of an Intentional Program Violation.

### **CONCLUSIONS OF LAW**

- 1) The Defendant made a false statement on the June 2020 application for SNAP benefits by reporting that her daughter resided in her home.
- 2) The Movant provided evidence that the Defendant's daughter had been in the custody of Child Protective Services since October 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, she will be excluded from participation in the Supplemental Nutrition Assistance Program for 12 months, effective January 1, 2021.

**ENTERED this 15<sup>th</sup> day of December 2020.**

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**Kristi Logan**  
**Certified State Hearing Officer**