



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

July 27, 2021

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 21-BOR-1663

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: Anisha Eye, [REDACTED] County DHHR

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

██████████,

Defendant,

v.

Action Number: 21-BOR-1663

**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 June 2, 2021. 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 July 6, 2021.

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 Print
- M-3 SNAP Issuance History-Disbursement Screen Print
- M-4 SNAP Allotment Determination Screen Prints
- M-5 Non-Financial Eligibility Determination Screen Prints
- M-6 SNAP Claim Calculation Sheets
- M-7 SNAP Claim Determination Form
- M-8 SNAP 6 or 12-Month Contact Form dated February 3, 2021

- M-9 Low Income Energy Assistance Program (LIEAP) Application dated April 1, 2021
- M-10 LIEAP Application dated April 7, 2021
- M-11 IV-E Eligibility Initial Determination Forms
- M-12 Initial Order Upon Filing of Petition from ██████ County, West Virginia Circuit Court dated January 11, 2021
- M-13 Order from ██████ County, West Virginia Circuit Court dated February 25, 2021
- M-14 Order Following Adjudicatory Hearing Regarding Respondent from ██████ County, West Virginia Circuit Court dated March 25, 2021
- M-15 Waiver of Administrative Disqualification Hearing (unsigned copy)
- M-16 Advance Notice of Administrative Disqualification Hearing Waiver dated May 19, 2021
- M-17 West Virginia Income Maintenance Manual §§1.2.4, 11.2 and 11.6
- M-18 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 June 2, 2021. 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 submitted a SNAP interim contact form to the Movant on February 3, 2021. She reported that her household consisted of herself and her three (3) children, ██████, ██████ and ██████ (Exhibit M-8).
- 4) The Defendant applied for LIEAP benefits on April 1 and April 7, 2021 and reported no changes to her household composition (Exhibits M-9 and M-10).
- 5) The Movant verified that ██████, ██████, and ██████, had been removed from the Defendant's custody by Child Protective Services on December 31, 2020 (Exhibits M-11, M-12, M-13 and M-14).
- 6) The children have remained in the Movant's custody since their removal.
- 7) The Defendant has no prior Intentional Program Violation offenses.

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 false statements on the February 3, 2021 SNAP interim contact form and the April 2021 LIEAP applications by reporting [REDACTED], [REDACTED] and [REDACTED] as residing in her household when they had been removed from her custody on December 31, 2020. The Defendant's actions meet the definition of an Intentional Program Violation.

CONCLUSIONS OF LAW

- 1) The Defendant made false statements on the February 2021 SNAP interim contact form and the April 2021 LIEAP applications by reporting that her three children resided in her home.
- 2) The Movant provided evidence that the Defendant's children had been in the custody of Child Protective Services since December 2020.
- 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, September 1, 2021.

ENTERED this 27th day of July 2021.

Kristi Logan
Certified State Hearing Officer