



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 2, 2021

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 21-BOR-1811

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: 21-BOR-1811

**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 22, 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 Section 273.16. The hearing was convened on August 31, 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 (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 appeared *pro se*. Appearing as a witness for the Defendant was ██████████, the Defendant's boyfriend.

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-Disbursements
- M-4 Food Stamp Allotment Determinations
- M-5 Non-Financial Eligibility Determination
- M-6 Case Comments
- M-7 Portion of SNAP application dated May 24, 2019
- M-8 Portion of PRC2 form received by Movant on September 30, 2019
- M-9 SNAP review form received by Movant on September 28, 2020
- M-10 Portion of PRC2 form dated May 4, 2021
- M-11 Shelter/utility statements submitted by Defendant on May 24, 2019, October 27, 2020 and May 4, 2021

- M-12 Waiver of Administrative Disqualification Hearing form
- M-13 Advance Notice of Administrative Disqualification Hearing Waiver dated July 1, 2021
- M-14 West Virginia Income Maintenance Manual Chapters 1.2.4, 11.2, 11.6.1 and 11.6.2
- M-15 Code of Federal Regulations Section 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) 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 22, 2021.
- 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) The Movant's Investigations and Fraud Management (IFM) Unit received a referral on May 4, 2021.
- 4) The referral indicated that the Defendant had provided incorrect information to the Movant concerning her rent and utility expenses.
- 5) The Defendant submitted statements on May 24, 2019, October 27, 2020 and May 4, 2021 (Exhibit M-11) indicating that she paid \$250 per month rent to her grandfather, [REDACTED], and that she paid one-half of the utility bills at the property.
- 6) The statements were submitted in conjunction with a SNAP application completed in May 2019, a SNAP review completed in October 2020, and a periodic report form (PRC2) submitted in May 2021 (Exhibits M-7, M-9 and M-10). The Defendant had also submitted a PRC2 form in September 2019, reporting no changes in her shelter and utility costs (Exhibit M-8).
- 7) The Defendant admittedly signed [REDACTED] signature on the rent/utility statements.
- 8) The Department maintains that the Defendant had no shelter and utility expenses for the period of May 2019 through March 2020 and, as a result, received \$1,155 in SNAP benefits to which she was not entitled Exhibits M-3 and M-4).

APPLICABLE POLICY

Code of Federal Regulations Section 273.16.c.1 (M-15) 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-14) 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-14) 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 Movant contended that the Defendant did not pay shelter and utility expenses to [REDACTED] for the period of May 2019 through March 2020. Repayment Investigator Emily Shumate testified that she contacted Mr. [REDACTED] attorney-in-fact, [REDACTED], who indicated that the Defendant did not reside on Mr. [REDACTED] property and had not paid rent to Mr. [REDACTED]. Ms. [REDACTED] reportedly confirmed that the landlord signature on the shelter/utility statements provided by the Defendant was not Mr. [REDACTED] signature.

The Defendant, an SSI recipient who reportedly suffers from Post-Traumatic Stress Disorder, testified that Mr. [REDACTED] is ill and cannot write. She stated that she signed Mr. [REDACTED] name on the shelter/utility statements submitted to the Movant. The Defendant testified that she resided in a camper on her grandfather's property for about 18 months in 2018 and 2019. She contended that

her aunt and uncle collected the rent/utility payments, and that they also required her to provide \$280 in SNAP benefits for meal contributions. [REDACTED], the Defendant's boyfriend, testified that he resided with the Defendant in the camper from fall 2018 to fall 2019, although the couple moved back and forth between the camper and their current residence during that time period. They also resided in an automobile for a portion of the time.

While it is noted that the Defendant suffers from a self-reported mental health condition, she admittedly signed Mr. [REDACTED] name on shelter/utility receipts, one of which listed her as the "renter" and Mr. [REDACTED] as the "landlord." The Defendant's living arrangements during the time period appeared unstable, as her boyfriend reported that the couple moved back and forth between locations. A scenario in which the Defendant would pay regular shelter and utility costs to her grandfather, while also moving from location to location, appears questionable.

As the Repayment Investigator received information that the Defendant did not pay rent and utility costs to her grandfather, the Movant's decision to apply an Intentional Program Violation penalty is correct.

CONCLUSIONS OF LAW

- 1) An Intentional Program Violation can be established for SNAP purposes when an individual misrepresents his/her case circumstances.
- 2) The Defendant reported that she paid shelter/utility costs to her grandfather for the period of May 2019 through March 2020.
- 3) The Defendant admittedly signed her grandfather's signature on shelter/utility verification submitted to the Movant.
- 4) The Movant determined that the Defendant did not pay shelter/utility costs to her grandfather.
- 5) Evidence is clear and convincing to establish an Intentional Program Violation.
- 5) 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 October 2021.

ENTERED this 2nd Day of September 2021.

**Pamela L. Hinzman
State Hearing Officer**