



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

Bill J. Crouch  
Cabinet Secretary

BOARD OF REVIEW  
State Capitol Complex  
Building 6, Room 817-B  
Charleston, West Virginia 25305  
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Jolynn Marra  
Interim Inspector General

September 21, 2021



RE: [REDACTED] v. WVDHHR  
ACTION NO.: 21-BOR-1896

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 Board of Review 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 that may be taken if you disagree with the decision reached in this matter.

Sincerely,

Angela D. Signore  
State Hearing Officer  
Member, State Board of Review

Enclosure: Appellant's Recourse  
Form IG-BR-29

cc: Birdena Porter, Department Representative

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

██████████,

**Defendant,**

v.

**Action Number: 21-BOR-1896**

**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 August 10, 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. This hearing was convened on September 9, 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 therefore be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for twelve (12) months.

At the hearing, the Movant appeared by Birdena Porter, Repayment Investigator, Investigations and Fraud Management (IFM). The Defendant failed to appear. The Department witness was sworn and the following documents were admitted into evidence.

**EXHIBITS**

**Movant's Exhibits:**

- M-1      ADH Hearing Summary Completed by Birdena Porter, dated August 31, 2021
- M-2      Food Stamp Claim Determination, dated October 2020 and March 2021
- M-3      Food Stamp Claim Calculation Sheets, dated October 2020 and March 2021
- M-4      SNAP Issuance History, dated November 2020 through August 2021
- M-5      Food Stamp Allotment Determination, dated August 31, 2021

- M-6 Household Case Members History, dated August 31, 2021
- M-7 WV PATH eligibility system printout of Case Comments, dated October 09, 2020 through November 09, 2020; WV PATH eligibility system printout of Case Comments, dated March 04, 2021 through March 16, 2021
- M-8 SNAP Application, signed October 06, 2020; SNAP Application, signed March 02, 2021
- M-9 Verification letter request issued to the U.S. Department of Veterans Affairs (VA), dated July 19, 2021; Award verification payments dated October 11, 2016 through July 01, 2021
- M-10 Advance Notice of Administrative Disqualification Hearing Waiver, dated July 26, 2021
- M-11 Waiver of Administrative Disqualification Hearing, unsigned Benefits Recovery Referral
- M-12 West Virginia Income Maintenance Manual (WVIMM) §§ 1.2.3.F.2 – 1.2.4
- M-13 WVIMM §§ 11.1 – 11.2.1
- M-14 WVIMM § 11.6.1
- M-15 Code of Federal Regulations 7 CFR § 273.16
- M-16 Code of Federal Regulations 7 CFR § 273.16

**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) The Investigation and Fraud Management (IFM) Unit of West Virginia Department of Health and Human Resources (WVDHHR) alleged an act of Intentional Program Violation (IPV) by the Defendant for withholding information regarding household income in her Assistance Group (AG) resulting in an over-issuance of SNAP and is requesting that she be disqualified from participation in SNAP for a period of twelve (12) months.
- 2) The Defendant was a recipient of SNAP benefits for a one (1) person AG. (Exhibits M-2 through M-7)
- 3) On October 06, 2020, the Defendant completed a SNAP Application and reported there was no source of income in her AG. (Exhibit M-8)
- 4) The Defendant signed the SNAP Application and consented that the information contained was true and correct to the best of her knowledge. (Exhibit M-8)

- 5) On March 02, 2021, the Defendant completed a SNAP Review and reported there was no source of income in her AG. (Exhibit M-8)
- 6) The Defendant signed the SNAP Review form and consented that the information contained was true and correct to the best of her knowledge. (Exhibit M-8)
- 7) On June 28, 2021, the Investigation and Fraud Management Unit received a referral indicating the Defendant was receiving benefits through the U.S. Department of Veterans Affairs (VA).
- 8) The Movant verified through the VA that on October 11, 2016, the Defendant began receiving a monthly unearned income for the death of the Defendant's husband, [REDACTED]. (Exhibit M-9)
- 9) The Defendant has no previous history of Intentional Program Violations (IPVs). (Exhibit M-1)

### **APPLICABLE POLICY**

#### **Code of Federal Regulations (CFR) §273.16 provides:**

An individual making 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 to an Intentional Program Violation (IPV).

#### **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.

#### **WV IMM § 3.2.1.B.5 provides, in part:**

Persons who have been found guilty for an IPV are disqualified as follows: First offense, One-year disqualification; Second offense, Two-year disqualification; and Third offense, permanent disqualification.

#### **WVIMM §§ 6.1-6.1.2 Data Exchanges provides, in part:**

Federal Data Hub and Income and Eligibility Verification System (IEVS) are electronic sources that perform data matches to verify types of income/assets. Data

exchange information available at application and review may be used by the Worker to evaluate discrepancies in the client's statement when it disagrees with Hub data.

Information is provided to the Worker through data exchanges. Information obtained through IEVS is used to verify the eligibility of the AG, to verify proper amount of benefits, and to determine if the AG received benefits to which it was not entitled.

**WV IMM § 11.2.3.B provides, in part:**

IPVs 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.

**WV IMM § 11.6.1 provides, in part:**

A willfully false statement is one that is deliberately given, with the intent that it be accepted as true, and with the knowledge that it is false.

**DISCUSSION**

Federal regulations define an IPV as making a false statement related to the acquisition of SNAP benefits. To show the Defendant committed an IPV, the Movant must provide clear and convincing evidence that the Defendant intentionally concealed or withheld facts pertinent to her SNAP eligibility.

On October 06, 2020, the Defendant completed an application for SNAP benefits and reported there was no source of income for her AG. The Defendant signed the application and acknowledged the information provided was true and correct to the best of her knowledge; however, she failed to report monthly unearned income received through the U.S. Department of Veterans Affairs (VA) for the death of the Defendant's husband, [REDACTED], on the form or during her interview.

On March 05, 2021, the Defendant submitted a new application for SNAP benefits and reported there was no source of income for her AG. The Defendant signed the application and acknowledged the information provided was true and correct to the best of her knowledge; however, she again failed to report the monthly unearned income received through the VA for the death of [REDACTED].

The Movant, through its investigation, by way of [REDACTED], Public Contact Outreach Specialist with the VA, confirmed that the Defendant began receiving monthly unearned income for the death of her husband on October 11, 2016 - during and beyond the date of her October 2020 and March 2021 SNAP applications.

The Movant established by clear and convincing evidence the Defendant made false statements at the time of both applications to acquire SNAP benefits she was not entitled to receive, thereby meeting the definition of an IPV.

Pursuant to regulations, individuals found to have committed an IPV through an ADH shall be ineligible to participate in SNAP for a specified time, depending on the number of offenses committed. Because the Defendant had no previous history of IPV disqualification penalties, a first-offense twelve (12) month disqualification penalty will be imposed, beginning in accordance with timelines established in federal regulations.

The Defendant did not appear for the hearing, and as such could not dispute facts presented by the Movant.

### **CONCLUSIONS OF LAW**

- 1) By failing to report unearned household income, the Defendant made a false statement to obtain SNAP benefits, which constitutes an IPV.
- 2) Because the action of the Defendant constitutes an IPV, the Movant must disqualify the Defendant from receipt of SNAP benefits.
- 3) Because the IPV is a first offense, the disqualification period is twelve (12) months beginning November 1, 2021.

### **DECISION**

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation (IPV). The Defendant will be disqualified from receipt of SNAP benefits for a period of twelve (12) months, beginning November 01, 2021.

ENTERED this \_\_\_\_ day of September 2021.

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**Angela D. Signore**  
State Hearing Officer