



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF THE 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

September 28, 2021

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 21-BOR-1923

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 Movant 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,

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

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

CC: Donald Greathouse, Investigations and Fraud Management

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

██████████,

**Defendant,**

v.

**ACTION NO.: 21-BOR-1923**

**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 a fair hearing for ██████████. This hearing was held in accordance with the provisions of Chapter 700 of the West Virginia Department of Health and Human Resources' (DHHR) Common Chapters Manual. This fair hearing was convened on September 14, 2021 on an appeal filed with the Board of Review on August 13, 2021.

The matter before the Hearing Officer arises from the Movant's request for an Administrative Disqualification Hearing (ADH) to determine whether the Defendant has committed a Supplemental Nutrition Assistance Program (SNAP) intentional program violation (IPV) and whether the Defendant should be disqualified from SNAP for twelve (12) months.

At the hearing, the Movant appeared by Donald Greathouse (Mr. Greathouse), Investigations and Fraud Management (IFM). The Defendant failed to appear. Mr. Greathouse was sworn in and the following documents were admitted into evidence.

**Movant's Exhibits:**

- M-1 Benefit Recovery Referral, dated June 10, 2021
- M-2 SNAP Claim Determination pages
- M-3 IFM Letter, dated July 19, 2021
- M-4 IFM Advanced Notice of ADH Waiver
- M-5 DHHR Application for SNAP, submitted September 27, 2020
- M-6 eRAPIDS Case Summary Printout; Case Comments Printout, dated July 29, 2020 through January 6, 2021
- M-7 WVEIS ██████████ County Record, dated November 28, 2016 through September 4, 2018
- M-8 Probate Court of ██████████ Letters of Guardianship, signed November 27, 2018

- M-9 Electronic Code of Federal Regulations, current as of October 29, 2020
- M-10 West Virginia Income Maintenance Manual (WVIMM) §§ 11.2-11.2.5.A
- M-11 WVIMM §§ 3.2-3.2.1.A.2
- M-12 WVIMM §§ 1.2.4-1.2.5
- M-13 Electronic Disqualification Recipient System Query Printout

**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 following Findings of Fact are set forth.

**FINDINGS OF FACT**

- 1) The Defendant was a recipient of SNAP benefits for herself and her minor child, [REDACTED] (Exhibits M-5 through M-7)
- 2) On August 13, 2021, the Movant requested an ADH to establish that the Defendant had committed an IPV and requested that a twelve-month SNAP disqualification penalty be applied.
- 3) On September 27, 2020, the Defendant submitted an application for SNAP benefits, indicated that Child [REDACTED] was a member of her household, and applied an electronic signature reflecting that she understood that information was true and correct and that she accepted the listed responsibilities (Exhibit M-5).
- 4) The Defendant's September 27, 2020 electronic signature acknowledged that she understood if any member of the Assistance Group (AG) was found to have committed an IPV, the individual would be disqualified from receiving SNAP benefits for a penalty period of twelve months for the first offense (Exhibit M-5).
- 5) On August 11, 2018, [REDACTED] signed a consent for school records release from [REDACTED] to [REDACTED] regarding Child [REDACTED] (Exhibit M-7).
- 6) On September 4, 2018, Child [REDACTED] was withdrawn from [REDACTED], West Virginia and transferred to [REDACTED] (Exhibit M-7).
- 7) On November 27, 2018 the Probate Court of [REDACTED] granted guardianship of Child [REDACTED] to [REDACTED] until Child [REDACTED] 18th birthday (Exhibit M-8).
- 8) The Defendant has no previous history of IPV (Exhibit M-13).

**APPLICABLE POLICY**

**West Virginia Income Maintenance Manual § 1.2.4 provides in part:**

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

**WVIMM §§ 2.2, 2.2.1.C, and 3.2.1.B.1 provide in part:**

To be eligible to receive benefits, the client must be a resident of West Virginia. 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.

**Code of Federal Regulations 7CFR § 273.16(b)(1)(i) provide in part:**

Individuals found to have committed an intentional program violation through an administrative disqualification hearing ... shall be ineligible to participate in SNAP for a period of twelve months for the first intentional program violation.

**Code of Federal Regulations 7CFR § 273.16(b)(13) provide 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 individuals' household.

**Code of Federal Regulations 7CFR § 273.16(c)(1) provides 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 an 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) and requested the Defendant be disqualified from SNAP benefits for a 12-month penalty

period and an IPV be established because she misrepresented information regarding the member composition of her AG. The Defendant was notified of the ADH scheduling and failed to appear. Pursuant to federal regulations, the hearing was held in the Defendant's absence.

The Movant had to prove by clear and convincing evidence that the Defendant intentionally made false or misleading statements, or misrepresented, concealed or withheld facts to obtain SNAP benefits.

The Defendant has a responsibility to provide complete and accurate information about her circumstances so that the Movant can make a correct determination about her SNAP eligibility. The evidence verified that guardianship of Child [REDACTED] was granted on November 27, 2018, by the Probate Court of [REDACTED], to [REDACTED] until Child [REDACTED] 18th birthday. The evidence established that the Defendant did not have guardianship of Child [REDACTED] at the time of her September 27, 2020 SNAP application.

The policy stipulates that to be a SNAP recipient and be included in the AG, Child [REDACTED], had to be a resident of West Virginia. Further, persons absent from the Defendant's household for more than a calendar month are not permitted by policy to be included in the Defendant's AG. The evidence verified that Child [REDACTED] was absent from the Defendant's household prior to her September 27, 2020 SNAP application.

### **CONCLUSIONS OF LAW**

- 1) The Defendant was required to accurately report her household composition so that the Movant could make a correct determination about her SNAP benefit eligibility.
- 2) An Intentional Program Violation (IPV) may be established when an individual makes false or misleading statements, or misrepresents, conceals or withholds facts to obtain SNAP benefits.
- 3) The evidence verified that Child [REDACTED] was not a member of the Defendant's household at the time of her September 27, 2020 SNAP application.
- 4) The evidence verified that the Defendant committed an IPV by misrepresenting child [REDACTED] as a member of her household on her SNAP application for the purpose of receiving SNAP benefits.
- 5) Because the Defendant had no previous history of IPV, a first-offense twelve-month SNAP disqualification penalty should be imposed.

### **DECISION**

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation and a first-offense twelve-month disqualification penalty period must be imposed, effective November 2021.

ENTERED this 28<sup>th</sup> day of September 2021.

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