



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

Bill J. Crouch
Cabinet Secretary

Board of Review
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Jolynn Marra
Interim Inspector General

November 9, 2021

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 21-BOR-2104

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,

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-2104

**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 and of Federal Regulations 7 CFR § 273.16. This fair hearing was convened on October 20, 2021 on an appeal filed with the Board of Review on September 16, 2021.

The matter before the Hearing Officer arises from a request by the Movant for an Administrative Disqualification Hearing (ADH) to determine whether the Defendant has committed an Intentional Program Violation and must be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for twelve (12) months.

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

Movant's Exhibits:

- M-1 Benefit Recovery Referral, dated July 12, 2021
- M-2 SNAP Claim Determination, Claim No.: ██████████; Case Benefit Summary
- M-3 Investigations and Fraud Management (IFM) Letter, dated August 12, 2021
- M-4 IFM Advanced Notice of ADH Waiver and Waiver of ADH
- M-5 Case Comments, dated January 30, 2017 through June 26, 2018
- M-6 Handwritten Statements, dated February 26, 2017
- M-7 IFM Employer Letter and Employment Data, dated June 26, 2018
- M-8 SNAP Review Form, scanned February 2, 2017
- M-9 Medicaid Review Form, Scanned May 31, 2017

- M-10 School Clothing Allowance (SCA) INROADS Application, submitted July 30, 2017
- M-11 SNAP INROADS Application, submitted August 25, 20217
- M-12 [REDACTED] Lease Agreement, signed January 1, 2017
- M-13 [REDACTED] Lease Agreement, signed December 16, 2016
- M-14 [REDACTED] Lease Agreement, signed January 1, 2017
- M-15 [REDACTED] Lease Agreement, signed December 16, 2016
- M-16 [REDACTED] Correspondence, dated August 17, 2018
- M-17 Claimant Profile Data
- M-18 Driver History Inquiry
- M-19 Absent Parent Summary
- M-20 Electronic Disqualified Recipient System Query Results, dated August 11, 2021
- M-21 Electronic Code of Federal Regulations, current as of October 29, 2020
- M-22 West Virginia Income Maintenance Manual (WVIMM) § 11.2
- M-23 WVIMM § 3.2
- M-24 WVIMM § 1.2.4

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 Supplemental Nutrition Assistance Program (SNAP) benefits for herself and her three minor children from February 2017 through April 2017 and for herself and her four minor children from May 2017 through February 2018 (Exhibits M-2 and M-5).
- 2) The Defendant, [REDACTED], and their three mutual minor children resided at [REDACTED] (Exhibits M-8 and M-18).
- 3) The Defendant, [REDACTED], and their four mutual minor children resided at [REDACTED] (Exhibits M-8, M-13, and M-15).
- 4) The Defendant and [REDACTED] received mail at [REDACTED] (Exhibits M-8, M-9, and M-17).
- 5) On February 2, 2017, the Defendant completed a SNAP review and did not list [REDACTED] as a member of the household (Exhibits M-5 and M-8).
- 6) On May 31, 2021, the Defendant completed a Medicaid review and did not list [REDACTED] as a member of the household (Exhibits M-5 and M-9).
- 7) On March 3, 2017, the Defendant submitted altered [REDACTED] Lease Agreements to the Respondent as verification of her household composition and

address (Exhibits M-12 through M-15).

- 8) The altered agreements reflected only the Defendant as the lessee (Exhibits M-12 and M-14).
- 9) The altered agreements contained signatures by the Appellant dated January 1, 2017 (Exhibits M-12 and M-14).
- 10) On March 3, 2017, the Movant obtained original [REDACTED] Lease Agreements from [REDACTED] which reflected the Defendant and [REDACTED] as the lessees and contained both of their signatures, dated December 16, 2016.
- 11) The signature of [REDACTED] reflected on the original agreements differed from the signature on the altered agreements submitted by the Defendant (Exhibits M-12 through M-15).
- 12) On March 16, 2017, the Defendant reported to the Movant that [REDACTED] name was on the lease and utilities, but that he was out of town frequently and resided in [REDACTED] (Exhibit M-5).
- 13) The Movant confirmed that the address provided by the Defendant for [REDACTED] was the address of [REDACTED] (Exhibit M-5).
- 14) The Defendant has no previous history of Intentional Program Violation (IPV).

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) § 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 §§ 2.2.1.C and 3.2.1.A.4 provide in part:

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 Assistance Group (AG). Shorter absences do not affect eligibility. This policy applies to visiting, obtaining vocational training or education, and obtaining medical care. This policy applies to in-state and out-of-state travel.

Natural children who are under 22 years of age and who live with a parent must be in the same AG as that parent. There is no required maximum/minimum amount of time the child must spend with the parent for the child to be included in the SNAP AG.

Code of Federal Regulations (October 29, 2020) 7CFR § 273.16(a)(1) provides in part:

Administrative disqualification procedures should be initiated by the State agency in cases in which the State agency has sufficient documentary evidence to substantiate that an individual has intentionally made one or more actions of Intentional Program Violation as defined in paragraph (c) of this section.

Code of Federal Regulations 7CFR § 273.16(b)(1)(i) provides 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) provides 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 individual's 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 ADH and requested the Defendant be disqualified from SNAP 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. Because the Movant failed to include exhibits M-6, M-7, M-10, and M-11 in the list of

evidence provided to the Defendant, those exhibits were given no weight by this Hearing Officer.

The Defendant had a responsibility to provide complete and accurate information about her circumstances so that the Movant could make a correct determination about her SNAP eligibility. The evidence verified that [REDACTED] and the Defendant resided with their mutual children. Pursuant to the evidence, [REDACTED] used the same address as the Defendant for his driver's license record. Both the Defendant and [REDACTED] were lessees of the residence listed by the Defendant on her application for SNAP benefits. The evidence verified that the Defendant submitted altered lease documents as household composition and address verification for the purpose of obtaining SNAP benefits.

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 [REDACTED] was a member of the Defendant's household at the time of her February 2017 SNAP review.
- 4) The evidence verified that the Defendant committed an IPV by misrepresenting her household composition on her SNAP review and submitting altered lease documentation 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 December 2021.

ENTERED this 9th day of November 2021.

Tara B. Thompson, MLS
State Hearing Officer