



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

Bill J. Crouch
Cabinet Secretary

**BOARD OF REVIEW
Raleigh County DHHR
407 Neville Street
Beckley, WV 25801**

Jolynn Marra
Interim Inspector General

November 16, 2021

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 21-BOR-2163

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] DHHR

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

██████████,

Defendant,

v.

Action Number: 21-BOR-2163

**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 September 28, 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 November 2, 2021.

The matter before the Hearing Officer arises from a request by the Department for a determination as to whether the Defendant has committed an Intentional Program Violation and should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for twelve (12) months.

At the hearing, the Movant appeared by Anisha Eye, Repayment Investigator. Appearing as a witness for the Movant was ██████████. The Defendant failed to appear. Both witnesses were sworn in 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 Prints
- M-4 SNAP Allotment Determination Screen Prints
- M-5 Non-Financial Eligibility Determination Screen Prints
- M-6 SNAP Claim Determination Forms
- M-7 SNAP Claim Calculation Sheets
- M-8 Medicaid Review Form dated January 9, 2020
- M-9 SNAP and Medicaid Review Form dated February 13, 2020
- M-10 SNAP 6 or 12-Month Contact Form dated August 10, 2020
- M-11 Medicaid Review Form dated September 28, 2020

- M-12 Landlord Verification Form dated July 1, 2021
- M-13 Residential Lease Agreement for November 1, 2019 - November 1, 2020
- M-14 Residential Lease Agreement for May 25, 2021 - November 25, 2021
- M-15 Eviction Notices dated June 30, 2021
- M-16 Order of Possession/Removal: Wrongful Occupation of Residential Rental Property dated July 22, 2021
- M-17 Employee Wage Data Screen Prints
- M-18 Referral for Child Protective Services Intake Report dated July 1, 2021 and Client Contact Report for July 2021
- M-19 Screenshots of [REDACTED] Facebook Pages
- M-20 Waiver of Administrative Disqualification Hearing (unsigned copy)
- M-21 Advance Notice of Administrative Disqualification Hearing Waiver dated September 16, 2021
- M-22 West Virginia Income Maintenance Manual §§1.2.4, 11.2, and 11.6
- M-23 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 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 September 28, 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 Medicaid review on January 9, 2020 and reported that her household consisted of herself and her two (2) children (Exhibit M-8).
- 4) The Defendant submitted a SNAP review form on February 13, 2020. She reported that her household consisted of herself and her two children (Exhibit M-9).
- 5) The Defendant submitted a SNAP 6 or 12-Month Contact Form on August 10, 2020. She reported no changes to her household composition (Exhibit M-10).

- 6) The Defendant submitted a Medicaid review form on September 28, 2020. She reported no changes to her household composition (Exhibit M-11).
- 7) On September 29, 2019, the Defendant entered into a one-year lease agreement with [REDACTED], the father of the Defendant's children, for a residence located at [REDACTED], West Virginia (Exhibit M-13).
- 8) The Defendant and [REDACTED] renewed their lease on [REDACTED] on May 10, 2021 (Exhibit M-14).
- 9) On June 30, 2021, the Defendant and [REDACTED] were served with an eviction notice by [REDACTED] to vacate the residence located on [REDACTED] (Exhibit M-15).
- 10) On July 2, 2021, Child Protective Services responded to a referral and interviewed [REDACTED] at the [REDACTED] (Exhibit M-18).
- 11) On July 22, 2021, the Defendant and [REDACTED] were ordered by the [REDACTED] to vacate the premise located on [REDACTED] by August 11, 2021 (Exhibit M-16).
- 12) The Defendant made numerous posts on her Facebook page discussing her and [REDACTED] eviction from [REDACTED] (Exhibit M-19).
- 11) The Movant contended that the Defendant committed an Intentional Program Violation by failing to report that [REDACTED] resided in her home. [REDACTED] was employed by [REDACTED] and his income exceeded the allowable limit for the household to receive SNAP benefits (Exhibit M-17).
- 12) 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 §3.2.1.A.4 states that natural or adopted children and stepchildren who are under 22 years of age and who live with a parent must be in the same assistance group (AG) as that parent.

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 numerous SNAP and Medicaid review forms by listing only herself and her children as residing in her home. The Movant provided evidence documenting that [REDACTED] had been residing with the Defendant since September 2019 when they entered into a lease agreement together. As the father of the Defendant's children, [REDACTED] and his income were required by policy to be considered when determining the household's eligibility for SNAP benefits. [REDACTED] earned income exceeded the allowable limits for the household to receive SNAP benefits.

The Defendant's actions meet the definition of an Intentional Program Violation and she will therefore be excluded from participation from SNAP for 12 months.

CONCLUSIONS OF LAW

- 1) The Defendant made false statements regarding her household composition on SNAP review forms received February 13, 2020 and August 10, 2020 and on Medicaid review forms received on January 9, 2020 and August 28, 2020 by failing to report that [REDACTED] resided in her household.
- 2) The Defendant and [REDACTED] have been residing together since September 29, 2019, when they entered into a lease agreement together.
- 3) [REDACTED] was required by policy to be included in the Defendant's SNAP assistance group.

- 4) By falsely reporting her household composition, the Defendant received SNAP benefits for which she was not entitled to receive.
- 5) As this is the Defendant's first Intentional Program Violation, she will be excluded 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. She will be excluded from participation in the Supplemental Nutrition Assistance Program for 12 months, effective December 1, 2021.

ENTERED this 16th day of November 2021.

**Kristi Logan
Certified State Hearing Officer**

