



**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 30, 2021

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 21-BOR-2191

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-2191

**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 5, 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 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 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. The Defendant failed to appear. The witness was 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 Form
- M-7 SNAP Claim Calculation Sheets
- M-8 SNAP Application dated July 28, 2020
- M-9 Application for Benefits dated August 1, 2020
- M-10 Low Income Energy Assistance Program (LIEAP) Application for ██████████ dated August 1, 2020

- M-11 Electricity Termination Notice for [REDACTED]
- M-12 Notice of Eviction dated August 18, 2020
- M-13 Application for Emergency Assistance for [REDACTED] dated August 18, 2020
- M-14 Lease Agreement dated April 28, 2020
- M-15 Notice of Eviction dated August 18, 2020, Statement of Rent Paid to [REDACTED], Statement from [REDACTED] dated August 25, 2020, Statement from [REDACTED] dated August 26, 2020, Statement from [REDACTED] dated August 25, 2020 and Civil Summons for Wrongful Occupation of Residential Rental Property dated August 21, 2020
- M-16 Application for Emergency Assistance for [REDACTED] dated August 25, 2020
- M-17 SNAP 6 or 12-Month Contact Form for [REDACTED] dated August 27, 2020
- M-18 Application for School Clothing Allowance dated September 23, 2020
- M-19 LIEAP Application for [REDACTED] dated November 18, 2020
- M-20 Zero Income/Home Heating Cost Verification Form dated December 10, 2020
- M-21 SNAP 6 or 12-Month Contact Form dated January 4, 2021
- M-22 Application for Emergency Assistance dated January 19, 2021
- M-23 Order of Possession/Removal: Wrongful Occupation of Residential Rental Property dated January 6, 2021
- M-24 Marriage Certificate dated May 3, 2020
- M-25 Waiver of Administrative Disqualification Hearing (unsigned copy)
- M-26 Advance Notice of Administrative Disqualification Hearing Waiver dated September 24, 2021
- M-27 West Virginia Income Maintenance Manual §§1.2.4, 11.2, and 11.6
- M-28 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 October 6, 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 applied for SNAP benefits on August 3, 2020. She listed her address as [REDACTED] and that her household consisted of herself and her two (2) children (Exhibit M-9).
- 4) The Defendant applied for School Clothing Allowance benefits on September 23, 2020. She reported no changes to her address or household composition (Exhibit M-18).
- 5) The Defendant submitted a SNAP review form on January 4, 2021. She reported no changes to her address or household composition (Exhibit M-21).
- 6) The Defendant applied for Emergency Assistance benefits on January 19, 2021. She reported no changes to her address or household composition (Exhibit M-22).
- 7) The Defendant entered into a lease agreement with [REDACTED] for a residence located at [REDACTED] on April 28, 2020 (Exhibit M-14).
- 8) The Defendant and [REDACTED] were married on May 3, 2020 (Exhibit M-24).
- 9) [REDACTED] applied for LIEAP benefits on August 1, 2020 and November 18, 2020, for Emergency Assistance benefits on August 18 and August 25, 2020 and completed a SNAP review for his case on August 27, 2020. He listed his address as [REDACTED] on all the above forms (Exhibits M-10, M-13, M-15, M-17 and M-19).
- 10) The Defendant and [REDACTED] were ordered to appear before the [REDACTED], West Virginia for the wrongful occupation of the [REDACTED] residence (Exhibit M-23).
- 11) The Movant contended that the Defendant made a false statement on the August 3, 2020 SNAP application by reporting only herself and her two children as residing in the household. The Defendant has been residing with [REDACTED] since April 28, 2020 and as his legal spouse, was required by policy to include him in her SNAP assistance group.
- 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.2 states that legal spouses residing together must be included in the same SNAP assistance group.

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 a false statement on the August 3, 2020 SNAP application, September 23, 2020 School Clothing Allowance application, January 4, 2021 SNAP review form, and January 19, 2021 Emergency Assistance application by reporting that her household consisted of only herself and her two children. The Defendant had been residing with her spouse since their marriage in May 2020.

The Defendant's actions meet the definition of an Intentional Program Violation.

CONCLUSIONS OF LAW

- 1) The Defendant made a false statement on the August 3, 2020 SNAP application form and subsequent applications for assistance by reporting that her household consisted of herself and her two children.
- 2) The Movant provided evidence that the Defendant has been residing with her spouse since their marriage in May 2020.

- 3) The act of making a false statement to obtain SNAP benefits constitutes an Intentional Program Violation.
- 4) The penalty for a first offense Intentional Program Violation is exclusion 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. As this is the Defendant's first offense, she will be excluded from participation in the Supplemental Nutrition Assistance Program for 12 months, effective January 1, 2022.

ENTERED this 30th day of November 2021.

**Kristi Logan
Certified State Hearing Officer**