



**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-2192

Dear Mr. [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-2192

**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 October 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 Sheet
- M-8 SNAP Application dated May 6, 2020
- M-9 Case Comments from March 2018 – May 2020
- M-10 Lease Agreement dated April 28, 2020

- M-11 Marriage Certificate dated May 3, 2020
- M-12 Waiver of Administrative Disqualification Hearing (unsigned copy)
- M-13 Advance Notice of Administrative Disqualification Hearing Waiver dated September 24, 2021
- M-14 West Virginia Income Maintenance Manual §§1.2.4, 11.2, and 11.6
- M-15 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 his household composition and requested that a twelve (12) month disqualification penalty be imposed against him.
- 2) The Defendant was notified of the hearing by a scheduling order mailed on October 6, 2021. The Defendant failed to appear for the hearing or provide good cause for his 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 SNAP application on May 6, 2020. He listed [REDACTED] as his address and reported that he was the only person in his household (Exhibit M-8).
- 4) The Defendant completed a telephone interview on May 19, 2020 to complete his SNAP application. The Defendant reported he was the only person in his household (Exhibit M-9).
- 5) The Defendant and [REDACTED] entered into a lease agreement together on April 28, 2020 for a residence located at [REDACTED] (Exhibit M-10).
- 6) The Defendant and [REDACTED] were married on May 3, 2020 (Exhibit M-11).
- 7) The Movant contended that the Defendant made a false statement on the May 6, 2020 SNAP application by reporting that he was the only member of his household. The Defendant has been residing with [REDACTED] since April 28, 2020 and as her legal spouse, she was required by policy to be included in his SNAP assistance group.

8) The Defendant has no prior IPV 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 May 6, 2020 SNAP application form and during the May 19, 2020 telephone interview by reporting that he was the only person living in his household. The Defendant provided evidence that the Defendant has been residing with his wife, [REDACTED], since their marriage on May 3, 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 May 6, 2020 SNAP application form and subsequent telephone interview by reporting that he was the only member of his household.
- 2) The Movant provided evidence that the Defendant has been residing with his spouse since their marriage on May 3, 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, he 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