



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

Bill J. Crouch  
Cabinet Secretary

BOARD OF REVIEW  
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Romney, WV 26757  
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Jolynn Marra  
Interim Inspector General

December 16, 2021

[REDACTED]  
[REDACTED]  
[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 21-BOR-2342

Dear [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,

Eric L. Phillips  
State Hearing Officer  
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision  
Form IG-BR-29

cc: Robin Taylor, WVDHHR

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

██████████,

**Defendant,**

v.

**Action Number: 21-BOR-2342**

**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 November 8, 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. This fair hearing was convened on December 14, 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 Robin Taylor, Repayment Investigator. The Defendant failed to appear. All witnesses were sworn and the following documents were admitted into evidence.

**Movant's Exhibits:**

- M-1 Hearing Request
- M-2 Food Stamp Claim Determination Worksheet
- M-3 Waiver of Administrative Disqualification Hearing
- M-4 Advance Notice of Administrative Disqualification Hearing Waiver
- M-5 Computer printout of Case Benefit Summary
- M-6 Computer printout of Case Summary
- M-7 Computer printout of Case Comments
- M-8 Supplemental Nutrition Assistance Program Application dated August 21, 2020
- M-9 Supplemental Nutrition Assistance Program Review Form (PRC-2) dated January 15, 2021

- M-10 [REDACTED] Circuit Court Orders, CC-23-2020-JA-76 dated June 26, 2020
- M-11 [REDACTED] Circuit Court Order Continuing Adjudicatory Hearing, CC-23-2020-JA-76
- M-12 West Virginia Income Maintenance Manual § 1.2.4
- M-13 Code of Federal Regulations § 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 household composition and requested the imposition of a twelve (12) month disqualification penalty. (Exhibit M-3 and M-4)
- 2) On November 10, 2021, the Board of Review issued the Defendant, by United States Postal Services, First Class Certified Mail, a scheduling order notifying her of the hearing. The Defendant received the notification on November 24, 2021 and failed to appear for the proceedings. 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 was a recipient of SNAP benefits. On June 23, 2020, the Defendant gave birth to an infant son. Due to the birth, the Movant's Hospital Economic Service Worker added the child to the Defendant's SNAP benefits.
- 4) On June 26, 2020, the Movant's Child Protective Services (CPS) unit petitioned the [REDACTED] Circuit Court for emergency custody of the newborn child. The court granted emergency custody to CPS based on an imminent danger to the child. (Exhibit M-10)
- 5) On August 21, 2020, the Defendant applied for SNAP benefits, indicating that the household consisted of herself and her infant son. (Exhibit M-8)
- 6) The Defendant had no prior IPV offenses. (Exhibit D-3)

## **APPLICABLE POLICY**

Code of Federal Regulations, 7 CFR §273.16, documents in pertinent part:

An Intentional Program Violation shall consist of a SNAP recipient having intentionally made a false or misleading statement, or misrepresented, concealed or withheld facts or committed any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system (access device).

Code of Federal Regulations, 7 CFR §273.16(b)(1)(i), documents in pertinent part:

Individuals found to have committed an Intentional Program Violation through an Administrative Disqualification Hearing or by a Federal, State, or local court, or who have signed either a waiver of right to an Administrative Disqualification Hearing or a disqualification consent agreement in cases referred for prosecution show be ineligible to participate in the Supplemental Nutrition Assistance Program for twelve months for the first intentional Program violation.

Code of Federal Regulations, 7 CFR §273.16(e)(6) documents in pertinent part:

The hearing authority shall base the determination of an Intentional Program Violation on clear and convincing evidence that demonstrates that the household member committed and intended to commit an Intentional Program Violation as defined above.

West Virginia Income Maintenance Manual § 1.24 documents:

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

## **DISCUSSION**

The Movant requested the Administrative Disqualification Hearing to determine whether the Defendant committed an Intentional Program Violation and should be disqualified from the Supplemental Nutrition Assistance Program for a period of 12 months. The Movant must provide clear and convincing evidence that the Defendant intentionally made false statements, concealed, or withheld facts concerning her SNAP eligibility.

The Defendant had the responsibility to provide complete and accurate information concerning her household circumstances in order for the Movant to make a correct determination regarding

her SNAP eligibility. Evidence revealed on June 26, 2020, shortly after the birth of her infant son, the Circuit Court removed the child from the Defendant's custody and placed the child in the care of Child Protective Services. The Defendant made false statements at her August 21, 2020, application for SNAP benefits, by reporting the child as a member of the household when he had been previously removed by CPS. The Defendant's actions meet the definition of an Intentional Program Violation.

### **CONCLUSIONS OF LAW**

- 1) The Movant, through Circuit Court orders, provided evidence that the Defendant's newborn child had been in the custody of Child Protective Services since June 26, 2020.
- 2) The Defendant made a false statement on her application for SNAP benefits on August 21, 2020, by reporting her infant son as a member of her household.
- 3) The act of making false statements 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 a 12-month period.

### **DECISION**

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation. This is the Defendant's first offense and will be excluded from participation in Supplemental Nutrition Assistance Program for 12 months beginning February 1, 2022.

**ENTERED this \_\_\_\_ day of December, 2021.**

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**Eric L. Phillips  
State Hearing Officer**