



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
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Bill J. Crouch
Cabinet Secretary

Jolynn Marra
Inspector General

May 09, 2022

[REDACTED]

Re: [REDACTED] v. WV DHHR
ACTION NO.: 22-BOR-1426

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,

Angela D. Signore
State Hearing Officer
Member, State Board of Review

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

cc: Robert Meade, WV DHHR, [REDACTED]

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

██████████,

Defendant,

v.

Action Number: 22-BOR-1426

**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 March 22, 2022. 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 hearing was convened on April 21, 2022.

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 (IPV) and should therefore be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for twelve (12) months.

At the hearing, the Movant appeared by Robert Meade, Repayment Investigator, Investigations and Fraud Management (IFM). The Defendant appeared *pro se*. The witnesses were sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 WV PATH system printout of Benefits Recovery Referral, dated April 11, 2022
- M-2 West Virginia Income Maintenance Manual (WVIMM) §§ 1.2.4, 11.2.3.B, 3.2.1.B.5, and 11.6.1
- M-3 Code of Federal Regulations 7 CFR § 273.16
- M-4 WV PATH system printout of Electronic Disqualified Recipient System for ██████████, dated February 22, 2022
- M-5 Electronic Mail (E-mail) correspondence, dated February 14, 2022
- M-6 WV PATH system printout of Bureau of Child Support Enforcement (BCSE) case comments, dated June 26, 3018 through September 13, 2018
- M-7 **
- M-8 SNAP Claim Determination No.: ██████████; Benefit Recovery Referral, dated

February 17, 2022; SNAP Claim Calculation Sheets for July 2018 through January 2019; SNAP Claim Determination No.: [REDACTED]; SNAP Claim Calculation Sheets for January 2019 through November 2020; SNAP Claim Determination No.: [REDACTED]; Benefit Recovery Referral, dated February 14, 2022; and SNAP Claim Calculation Sheets for December 2020 through December 2021

M-9 WV PATH eligibility system printout of Case Comments, dated June 12, 2018 through October 25, 2018; WV PATH eligibility system printout of Case Comments, dated June 14, 2019 through October 24, 2019; WV PATH eligibility system printout of Case Comments, dated June 30, 2020 through December 15, 2020; WV PATH eligibility system printout of Case Comments, dated December 08, 2020; WV PATH eligibility system printout of Case Comments, dated June 01, 2021; WV PATH eligibility system printout of Case Comments, dated November 03, 2021 through December 06, 2021; and WV PATH eligibility system printout of Case Comments, dated December 20, 2021

M-10 WV DHHR Public Assistance Verification Form, signed September 17, 2020; and WV DHHR Public Assistance Verification Form, signed May 25, 2021

M-11 SNAP Review Form, signed October 25, 2018; Medicaid Review Form, signed June 26, 2019; SNAP Review Form, signed October 24, 2019; WV PATH SNAP/Medicaid Review, submitted July 02, 2020; WV PATH Medicaid Review, submitted December 08, 2020; SNAP Review Form, signed May 28, 2021; and SNAP Review Form, signed October 23, 2021

** Exhibit M-7 not admitted into evidence

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 Investigation and Fraud Management (IFM) Unit of West Virginia (WV) Department of Health and Human Resources (DHHR) alleged the Defendant committed an act of Intentional Program Violation (IPV) by falsely reporting household composition and requested the imposition of a twelve (12) month disqualification penalty. (Exhibit M-1)
- 2) The Defendant was a recipient of SNAP benefits.
- 3) On June 03, 2018, the Defendant gave birth to an infant daughter, child, [REDACTED]. Due to the birth, the child was added to the Defendant's SNAP benefits.
- 4) On June 08, 2018, child, [REDACTED] was removed from the Defendant's home and placed in State Custody. (Exhibits M-5 and M-6)
- 5) The Defendant's Parental Rights to child, [REDACTED] were terminated July 2019. (Exhibit

M-1)

- 6) On October 25, 2018, the Defendant completed a SNAP Review and reported her household composition consisted of herself and child, [REDACTED] (Exhibit M-11)
- 7) The Defendant signed the October 25, 2018 SNAP Review form and consented that the information contained was true and correct to the best of her knowledge. (Exhibit M-11)
- 8) On June 26, 2019, the Defendant completed a Medicaid Review and reported her household composition consisted of herself and child, [REDACTED] (Exhibit M-11)
- 9) The Defendant signed the June 26, 2019 SNAP Review form and consented that the information contained was true and correct to the best of her knowledge. (Exhibit M-11)
- 10) On October 24, 2019, the Defendant completed a SNAP Review and reported her household composition consisted of herself and child, [REDACTED] (Exhibit M-11)
- 11) The Defendant signed the October 24, 2019 SNAP Review form and consented that the information contained was true and correct to the best of her knowledge. (Exhibit M-8)
- 12) On July 02, 2020, the Defendant completed a WV PATH SNAP/Medicaid Review and reported her household composition consisted of herself and child, [REDACTED] (Exhibit M-11)
- 13) The Defendant signed the July 02, 2020 SNAP Review form and consented that the information contained was true and correct to the best of her knowledge. (Exhibit M-11)
- 14) On December 08, 2020, the Defendant completed a WV PATH Medicaid Review and reported her household composition consisted of herself and child, [REDACTED] (Exhibit M-11)
- 15) The Defendant signed the December 08, 2020 SNAP Review form and consented that the information contained was true and correct to the best of her knowledge. (Exhibit M-11)
- 16) On May 28, 2021, the Defendant completed a SNAP Review and reported her household composition consisted of herself and child, [REDACTED] (Exhibit M-11)
- 17) The Defendant signed the May 28, 2021 SNAP Review form and consented that the information contained was true and correct to the best of her knowledge. (Exhibit M-11)
- 18) On October 23, 2021, the Defendant completed a SNAP Review and reported her household composition consisted of herself and child, [REDACTED] (Exhibit M-11)
- 19) The Defendant signed the October 23, 2021 SNAP Review form and consented that the information contained was true and correct to the best of her knowledge. (Exhibit M-11)
- 20) The Defendant has no previous history of Intentional Program Violations (IPVs). (Exhibit M-4)

APPLICABLE POLICY

Code of Federal Regulations (CFR) §273.16 provides, in part:

An individual making 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 to an Intentional Program Violation (IPV).

Code of Federal Regulations, 7 CFR §273.16(b)(1)(i) provides, in 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.

West Virginia Income Maintenance Manual (WVIMM) § 1.2.4 Client Responsibility provides, in part:

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.

WV IMM § 3.2.1.B.5 provides, in part:

Persons who have been found guilty for an IPV are disqualified as follows: First offense, One-year disqualification; Second offense, Two-year disqualification; and Third offense, permanent disqualification.

WVIMM §§ 10.4.2-10.4.2.A provides, in part:

All SNAP AGs must report changes related to eligibility and benefit amount at application and redetermination.

WV IMM § 11.2.3.B provides, in part:

IPVs 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.

WV IMM § 11.6.1 provides, in part:

A willfully false statement is one that is deliberately given, with the intent that it be accepted as true, and with the knowledge that it is false.

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 (SNAP) 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.

On June 03, 2018, the Defendant gave birth to an infant daughter, child, [REDACTED]. Due to the birth, the child was added to the Defendant's SNAP benefits. On June 08, 2018, shortly after the birth of child [REDACTED], the Movant's Child Protective Services (CPS) removed [REDACTED] from the Defendant's home and placed her in State Custody until the Defendant's parental rights were terminated July 2019.

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 SNAP eligibility. Evidence revealed on October 25, 2018, June 26, 2019, October 24, 2019, July 02, 2020, December 08, 2020, May 28, 2021, and October 23, 2021, the Defendant intentionally reported child [REDACTED] as a member of the household composition though she had been previously removed by CPS. Further, the Defendant signed acknowledgement that the information provided on the Interim Contact Forms was true and correct.

Federal regulations define an IPV as making a false statement related to the acquisition of SNAP benefits. The evidence established that the Defendant made false statements regarding the composition of her household for the purpose of receiving SNAP benefits; therefore, the Defendant's actions meet the definition of an Intentional Program Violation.

Pursuant to regulations, individuals found to have committed an IPV through an ADH shall be ineligible to participate in SNAP for a specified time, depending on the number of offenses committed. Because the Defendant had no previous history of IPV disqualification penalties, a first-offense twelve (12) month disqualification penalty will be imposed, beginning in accordance with timelines established in federal regulations.

CONCLUSIONS OF LAW

1) The Defendant made a false statement by reporting child [REDACTED] as a member of the household composition on October 25, 2018, June 26, 2019, October 24, 2019, July 02, 2020, December 08, 2020, May 28, 2021, and October 23, 2021.

2) Because the action of the Defendant constitutes an IPV, the Movant must disqualify the

Defendant from receipt of SNAP benefits.

3) Because the IPV is a first offense, the disqualification period is twelve (12) months beginning June 01, 2022.

DECISION

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation (IPV). The Defendant will be disqualified from receipt of SNAP benefits for a period of twelve (12) months, beginning June 01, 2022.

ENTERED this ____ day of May 2022.

Angela D. Signore
State Hearing Officer