



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Bill J. Crouch
Cabinet Secretary

Jolynn Marra
Inspector General

May 27, 2022

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 22-BOR-1494

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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

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

cc: Debra Carey, WVDHHR

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

██████████,

Defendant,

v.

Action Number: 22-BOR-1494

**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 April 8, 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 Section 273.16. The hearing was convened on May 17, 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 be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Movant appeared by Debra Carey, Repayment Investigator, WVDHHR. The Defendant appeared *pro se*.

The witnesses were sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 ADH Hearing Summary
- M-2 Benefit Recovery Referral
- M-3 SNAP review form signed by Defendant on July 13, 2020
- M-4 SNAP 6 or 12 month contact form signed by Defendant on January 26, 2021
- M-5 SNAP review form signed by Defendant on July 23, 2021
- M-6 Case Comments from Respondent's computer system
- M-7 IPACT Marriage Search Criteria and IPACT Marriage Results
- M-8 Statement from ██████████, landlord, signed on February 27, 2022
- M-9 ██████████ electric bill dated February 11, 2019
- M-10 Driver History Inquiry for ██████████
- M-11 Vehicle System Master Inquiry for ██████████
- M-12 ██████████ County, West Virginia, property tax information

- M-13 Employment and payroll data for [REDACTED] from [REDACTED] [REDACTED], dated April 8, 2022
- M-14 Address history for [REDACTED]
- M-15 Electronic Mail Transmissions between Debra Carey and [REDACTED]
- M-16 Employee Wage Data for [REDACTED]
- M-17 Food Stamp Claim Determination for the period of September 2020- March 2022, Benefit Recovery Referral, Food Stamp Calculation Sheets and Food Stamp Allotment Determinations
- M-18 Advance Notice of Administrative Disqualification Hearing Waiver dated March 31, 2022
- M-19 Waiver of Administrative Disqualification Hearing
- M-20 West Virginia Income Maintenance Manual Chapter 1.2.4
- M-21 West Virginia Income Maintenance Manual Chapters 3.2.1, 3.2.1.A, 3.2.1.A.2 and 3.2.2
- M-22 West Virginia Income Maintenance Manual Chapters 11.1 and 11.2
- M-23 Code of Federal Regulations Section 273.16

Defendant’s Exhibits:

- D-1 Written statement of [REDACTED]
- D-2 Lot rent receipt dated April 1, 2022
- D-3 Written statement of [REDACTED] dated April 1, 2022
- D-4 Written statement of [REDACTED] dated April 21, 2022
- D-5 Written statement of [REDACTED]

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) A request for an Administrative Disqualification Hearing was received by the Board of Review from the West Virginia Department of Health and Human Resources, hereinafter referred to as Movant, on April 8, 2022.
- 2) The Movant contends that the Defendant has committed an Intentional Program Violation (IPV) and recommends that the Defendant be disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, for a period of 12 months.
- 3) The Movant’s Investigations and Fraud Management (IFM) Unit received a referral on March 21, 2022 (Exhibit M-2).
- 4) The referent alleged that the Defendant erroneously claimed that she was separated from her husband, [REDACTED]. The referent contended that [REDACTED] resided in the Defendant’s home and was employed (Exhibit M-2).

- 5) The Defendant married [REDACTED] on September 1, 2016 (Exhibit M-7).
- 6) The Defendant signed a SNAP review form on July 13, 2020, reporting only herself in the home (Exhibit M-3).
- 7) The Defendant signed a SNAP 6 or 12 month contact form on January 26, 2021, and reported only herself in the home (Exhibit M-4).
- 8) The Defendant signed a SNAP review form on July 23, 2021, reporting only herself in the home (Exhibit M-5).
- 9) [REDACTED], lot rent landlord for the Defendant's residence at [REDACTED], completed and signed a questionnaire on February 17, 2022, indicating that the mobile home lot was rented to [REDACTED], that the couple moved in on July 17, 2020, and that they continued to reside at the site. The landlord listed [REDACTED] as an occupant at the residence and listed [REDACTED] as a source of income (Exhibit M-8).
- 10) [REDACTED] name is listed as the account holder on a [REDACTED] bill for the residence dated February 11, 2019. [REDACTED] physical address is listed as [REDACTED] and his mailing address is listed as [REDACTED] (Exhibit M-9).
- 11) [REDACTED] address is listed as [REDACTED] on his driver's license (Exhibit M-10).
- 12) [REDACTED] name is listed by the Division of Motor Vehicles as owner of a 2018 fabricated home. His address was recorded as [REDACTED] (Exhibit M-11).
- 13) The Division of Motor Vehicles lists the [REDACTED] address for four vehicles owned by [REDACTED] (Exhibit M-11).
- 14) Property tax tickets from [REDACTED], West Virginia, for 2021 list the [REDACTED] address for both [REDACTED]. Property tax tickets for 2020 and 2019 list an address of [REDACTED], for [REDACTED] (Exhibit M-12).
- 15) [REDACTED] was hired by [REDACTED], on September 14, 2017, and works 40 hours per week. The employer lists [REDACTED] address as [REDACTED] (Exhibit M-13).
- 16) [REDACTED] tax filing status is married with four dependents for federal tax purposes and two dependents for state tax purposes (Exhibit M-13).
- 17) [REDACTED] stays in a company house for out-of-town employees in [REDACTED], five to six days per week (Exhibit M-15).

18) The Movant concluded that the Defendant received \$4,382 in SNAP benefits to which she was not entitled for the period of September 2020 through March 2022 (Exhibit M-17).

APPLICABLE POLICY

Code of Federal Regulations Section 273.16.c.1 (M-23) states that an Intentional Program Violation includes committing an 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 as part of an automated benefit delivery system (access device).

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; and third offense, permanent disqualification.

West Virginia Income Maintenance Manual §1.2.4 (M-20) states that it is the client's responsibility to provide complete and accurate information about his/her circumstances so that the worker can make a correct determination about his/her eligibility.

DISCUSSION

Regulations specify that an Intentional Program Violation includes committing an 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 as part of an automated benefit delivery system (access device). IPV's include making false or misleading statements, misrepresenting facts, or concealing or withholding information. An individual found to have committed an IPV is ineligible to receive SNAP benefits for a specified time, depending on the number of offenses committed.

The Defendant testified that she has been separated from her husband for about two years and did not reside with him during the time she was receiving SNAP benefits. She contended that the utility bills at the [REDACTED] residence are in her husband's name because she cannot obtain the services due to credit issues. [REDACTED] indicated that the [REDACTED] address is listed on her husband's driver's license because he had to list a physical address to obtain the license. She stated that they use the same county property tax ticket, but they each pay half of the taxes. The Defendant testified that [REDACTED] works and lives in [REDACTED] several days per week and she is unaware

of his whereabouts on days when he is not working. The Defendant stated that she had been living with friends at one point, but [REDACTED] asked her to move into the mobile home while he was out of town so that it would not be empty. As part of the arrangement, she agreed to pay the lot rent and the electric and water bills. [REDACTED] later told her to move out of the trailer because he was selling it. The Defendant stated that she, and not [REDACTED], paid the lot rent, and that her landlord has no idea who was in the household.

The Defendant provided plausible explanations for the address issues and her living arrangement. While the Defendant's landlord completed a questionnaire indicating that [REDACTED] lived at the residence, the landlord was not present at the hearing to answer questions or provide additional details. There was no information concerning how frequently [REDACTED] had been observed at the residence. Undisputed evidence revealed that [REDACTED] stayed in [REDACTED] five to six days per week, so the landlord's level of knowledge concerning his presence at the mobile home is questionable.

The Movant has not provided clear and convincing evidence that the Defendant committed an Intentional Program Violation.

CONCLUSIONS OF LAW

- 1) An Intentional Program Violation can be established for SNAP purposes when an individual misrepresents his/her case circumstances.
- 2) The Movant contends that the Defendant's husband was residing in her household during the period of September 2020 through March 2022.
- 3) The Defendant provided plausible explanations to refute the Movant's claims.
- 4) Clear and convincing evidence was not provided to support the imposition of an Intentional Program Violation.
- 5) The Movant's proposal to apply an Intentional Program Violation to the Defendant's SNAP benefits cannot be affirmed.

DECISION

The State Hearing Officer finds that the Defendant has not committed an Intentional Program Violation. The Movant's proposal to impose a 12-month IPV penalty on SNAP benefits is **REVERSED**.

ENTERED this 27th Day of May 2022.

Pamela L. Hinzman
State Hearing Officer