



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

Bill J. Crouch  
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Board of Review  
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Jolynn Marra  
Inspector General

July 13, 2022

[REDACTED]  
[REDACTED]  
[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 22-BOR-1686

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 Board of Review 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 that may be taken if you disagree with the decision reached in this matter.

Sincerely,

Tara B. Thompson, MLS  
State Hearing Officer  
State Board of Review

Enclosure: Defendant's Recourse  
Form IG-BR-29

CC: Donald Greathouse, Investigations and Fraud Management

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

██████████,

**Defendant,**

v.

**ACTION NO.: 22-BOR-1686**

**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 a fair hearing for ██████████. This hearing was held in accordance with the provisions of Chapter 700 of the West Virginia Department of Health and Human Resources (DHHR) Common Chapters Manual and of Federal Regulations 7 CFR § 273.16. This fair hearing was convened on June 29, 2022 on a request for an Administrative Disqualification Hearing (ADH) filed with the Board of Review on June 2, 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 and must be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for twelve (12) months.

At the hearing, the Movant appeared by Donald Greathouse, Investigations and Fraud Management. The Defendant failed to appear. Mr. Greathouse was sworn in and the following documents were admitted into evidence.

**Movant's Exhibits:**

- M-1 Benefit Recovery Referral, dated April 21, 2022  
Benefit Recovery Referral, dated April 21, 2022
- M-2 SNAP Claim Determination, months issued June 1 through December 31, 2021 and  
January 1 through 31, 2022
- M-3 Case Benefit Summary, dated March 4, 2021 through May 4, 2022
- M-4 Advance Notice of ADH Waiver, May 5, 2022
- M-5 Case Comments, dated June 7 through June 14, 2021
- M-6 Notice, dated June 11, 2021
- M-7 SNAP 6 or 12 Month Interim Contact Form (PRC-2), received October 29, 2021
- M-8 Court of Common Pleas, Domestic Relations Division, ██████████ Order

- M-9 ██████████ High School Student Information  
Attendance Verification, ██████████ High School  
Attendance Verification, ██████ High School
- M-10 Electronic Code of Federal Regulations § 273.16
- M-11 West Virginia Income Maintenance Manual (WVIMM) §§ 11.2.3.A.2 through 11.2.5
- M-12 WVIMM §§ 3.2.1 through 3.2.1.A.5
- M-13 WVIMM §§ 1.2.3.F.2 through 1.2.5

**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 following Findings of Fact are set forth.

**FINDINGS OF FACT**

- 1) The Defendant receives SNAP benefits for an Assistance Group (AG) that included the Defendant, ██████████, and Child ██████ beginning on June 1, 2021 (Exhibits M-5 and M-6).
- 2) On May 5, 2022, the Movant issued a notice advising that the Defendant received SNAP benefits she was not entitled to receive from June 1, 2021 through January 31, 2022 because she intentionally violated the SNAP rules by falsely reporting a child residing in her home (Exhibit M-4).
- 3) ██████████ and ██████████ are the mutual parents of Child ██████ (Exhibit M-8).
- 4) On June 7, 2021, the Defendant completed a SNAP eligibility interview and added Child ██████ to her household (Exhibit M-5).
- 5) On October 29, 2021, the Defendant signed an Interim Contact Form (PRC-2) and certified statements made on the form were true and correct (Exhibit M-7).
- 6) On October 21, 2021, an order was signed in the Court of Common Pleas, Domestic Relations Division, of ██████████ revealing ██████████ had abandoned Child ██████ over a year before and Child ██████ had been in the custody of ██████████ since that time (Exhibit M-8).
- 7) On October 21, 2021, ██████████ was designated as the residential parent and legal custodian of Child ██████ (Exhibit M-8).
- 8) Child ██████ was enrolled at ██████████ High School in ██████████ from July 1, 2021 through September 27, 2021 (Exhibit (M-9)).

- 9) Child █████ resided at a different address than █████ while enrolled at █████ High School (Exhibits M-9).
- 10) On October 27, 2021, Child █████ enrolled at █████ High School (hereafter, █████), in █████, West Virginia (Exhibit M-9).
- 11) At the time of Child █████ enrollment, Child █████ resided with █████ (Exhibit M-9).
- 12) On the Interim Contact Form, the Defendant marked, "yes," that Child █████ lived in her home (Exhibit M-7).

### APPLICABLE POLICY

#### **West Virginia Income Maintenance Manual § 1.2.4 provides in part:**

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

#### **WVIMM §§ 2.2, 2.2.1.C, and 3.2.1.A provides in part:**

To be eligible to receive benefits, the client must be a resident of West Virginia. The SNAP Assistance Group (AG) must include all eligible individuals who both live together and purchase food and prepare meals together. An individual cannot be a member of more than one SNAP AG in any month.

#### **Code of Federal Regulations 7CFR § 273.16(b)(1)(i) provide in part:**

Individuals found to have committed an intentional program violation through an administrative disqualification hearing ... shall be ineligible to participate in SNAP for a period of twelve months for the first intentional program violation.

#### **Code of Federal Regulations 7CFR § 273.16(b)(13) provide in part:**

The disqualification period shall begin no later than the second month which follows the date the individual receives written notice of the disqualification. The disqualification period must continue uninterrupted until completed regardless of the eligibility of the disqualified individuals' household.

#### **Code of Federal Regulations 7CFR § 273.16(c)(1) provides in part:**

An intentional program violation is defined as an individual having intentionally made a false or misleading statement, or misrepresented, concealed, or withheld facts.

**Code of Federal Regulations 7CFR § 273.16(e)(4) provides in part:**

If the household member or its representative cannot be located or fails to appear at a hearing initiated by the State agency without good cause, the hearing shall be conducted without the household member being represented. Even though the household member is not represented, the hearing official is required to carefully consider the evidence and determine if an intentional program violation was committed based on clear and convincing evidence.

**DISCUSSION**

The Movant petitioned the Board of Review for an Administrative Disqualification Hearing (ADH) and requested the Defendant be disqualified from SNAP benefits for a 12-month penalty period and an IPV be established because she misrepresented information regarding the member composition of her AG. The Defendant was notified of the ADH scheduling and failed to appear. Pursuant to federal regulations, the hearing was held in the Defendant's absence.

The Movant had to prove by clear and convincing evidence that the Defendant intentionally made false or misleading statements, or misrepresented, concealed or withheld facts to obtain SNAP benefits. The Movant asserted that the Defendant made false statements and misrepresented the composition of her household to obtain SNAP benefits when she added Child [REDACTED] to her AG on June 7, 2021 and when she included Child [REDACTED] as a member of the household on her October 29, 2021 Interim Contact Form. To prove that the Defendant committed an IPV, the Movant had to prove by clear and convincing evidence that Child [REDACTED] did not reside with the Defendant

June 7, 2021

The documents provided regarding the Court of Common Pleas Domestic Relations Division of [REDACTED] were given little weight in the decision of the Hearing Officer. The evidence reflected a Judgment Entry of 23 pages; however, only six pages were provided as evidence. While the pages provided revealed Child [REDACTED] father had been awarded residential and legal custody, effective October 21, 2021, the child's location during June 2021 was not corroborated in the provided pages of the Judgment Entry.

The school records indicated that Child [REDACTED] was enrolled at [REDACTED] High School in July 2021, however, no evidence was entered to verify that she had attended school at that time or to establish where she physically resided in June 2021. While documents reflected that Child [REDACTED]

was enrolled, no evidence was presented to verify what days Child [REDACTED] attended. During enrollment at [REDACTED] High School, Child [REDACTED] was listed as residing on [REDACTED] while [REDACTED] resided on [REDACTED]. No statements from [REDACTED] were provided to verify where Child [REDACTED] was living in June 2021. Therefore, the Movant failed to verify by clear and convincing evidence that Child [REDACTED] was not physically residing with the Defendant in June 2021.

October 29, 2021

The Defendant has a responsibility to provide complete and accurate information about her circumstances so that the Movant can make a correct determination about her SNAP eligibility. The evidence revealed that Child [REDACTED] did not reside with the Defendant when she completed her October 29, 2021 SNAP Interim Contact Form.

The Attendance Verification Form reflected that Child [REDACTED] was transferred from [REDACTED] High School on September 27, 2021. On October 21, 2021, [REDACTED] was awarded primary residential and legal custody of Child [REDACTED]. By October 27, 2021, Child [REDACTED] was enrolled in [REDACTED] High School and was residing with [REDACTED]. The Defendant did not appear at the hearing to refute the Movant's evidence that Child [REDACTED] resided with [REDACTED] at the time she completed her October 29, 2021 Interim Contact Form. The Movant proved by clear and convincing evidence that Child [REDACTED] was not residing with the Defendant at the time she completed her October 29, 2021 Interim Contact Form.

IPV

To be an eligible SNAP recipient included in the Defendant's AG, Child [REDACTED] had to live with the Defendant. The evidence established that Child [REDACTED] was not an eligible member of the Defendant's household at the time she completed her October 29, 2021 SNAP Interim Contact Form.

**CONCLUSIONS OF LAW**

- 1) The Defendant was required to accurately report her household composition so that the Movant could make a correct determination about her SNAP benefit eligibility.
- 2) An Intentional Program Violation (IPV) may be established when an individual makes false or misleading statements, or misrepresents, conceals, or withholds facts to obtain SNAP benefits.
- 3) The evidence verified that Child [REDACTED] was not a member of the Defendant's household when she submitted her October 29, 2021 Interim Contact Form.
- 4) The evidence verified that the Defendant committed an IPV by misrepresenting Child [REDACTED] as a member of her household on her SNAP application for the purpose of receiving SNAP

benefits.

- 5) Because the Defendant had no previous history of an IPV, a first-offense twelve-month SNAP disqualification penalty must be imposed.

**DECISION**

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation and a first-offense twelve-month disqualification penalty period must be imposed, effective August 2022.

ENTERED this 13<sup>th</sup> day of July 2022.

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**Tara B. Thompson, MLS**  
State Hearing Officer