



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

Bill J. Crouch  
Cabinet Secretary

Board of Review  
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Jolynn Marra  
Inspector General

July 27, 2022

[REDACTED]  
[REDACTED]  
[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 22-BOR-1788

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-1788**

**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 (ADH) 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 July 20, 2022 on an appeal filed with the Board of Review on June 27, 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 months.

At the hearing, the Movant appeared by Donald Greathouse, Investigations and Fraud Management. The Defendant did not appear for the hearing. The witnesses were sworn in and the following exhibits were entered as evidence.

**Department's Exhibits:**

- M-1 Benefit Recovery Referral, dated March 25, 2022
- M-2 SNAP Claim Determination
- M-3 Notice, dated May 25, 2022
- M-4 Advance Notice of Administrative Disqualification Hearing (ADH) Waiver, dated June 3, 2022
- M-5 Case Comments, dated August 4, 2021 through April 26, 2022
- M-6 SNAP Review Form, received March 1, 2021
- M-7 SNAP Review Form, received August 25, 2021
- M-8 ██████████ Wage Verification
- M-9 Electronic Code of Federal Regulations

M-10 West Virginia Income Maintenance Manual (WVIMM) §§ 11.2.3.A.2 through 11.2.5  
M-11 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 was a recipient of SNAP benefits for a one-person assistance group (AG) from August 1, 2021 through March 31, 2022 (Exhibits M-1 and M-2).
- 2) On March 1, 2021, the Defendant submitted a SNAP review form and wrote, "N/A" for Employer Name (Exhibit M-6).
- 3) On August 25, 2021, the Defendant submitted a SNAP review form that reflected the household's gross earned income was \$0.00 (Exhibit M-7).
- 4) On August 25, 2021, the Defendant reported she had no income during her SNAP eligibility interview (Exhibit M-5).
- 5) On March 25, 2022, the Defendant reported she had no income and has not worked since 2016 during her SNAP eligibility phone review (Exhibit M-5).
- 6) The Defendant affixed a handwritten signature to the March 1 and August 25, 2021 SNAP review forms and certified that she read and understood all statements on the form and all information was true and correct (Exhibits M-6 and M-7).
- 7) The Defendant was employed at [REDACTED] from April 23, 2021 through May 24, 2022 (Exhibits M-2 and M-8).
- 8) The Defendant works 36 hours per week and is paid wages every two weeks (Exhibit M-8).

**APPLICABLE POLICY**

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

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

**Code of Federal Regulations 7CFR §273.16(b)(13) provides 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 individual's 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 intentional Program violation was committed based on clear and convincing evidence.

**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 her circumstances so that the Worker can make a correct determination about her eligibility.

**DISCUSSION**

The Movant investigated the Defendant's receipt of SNAP benefits from August 2021 through March 2022. The Movant petitioned the Board of Review for an Administrative Disqualification Hearing (ADH) and requested that the Defendant be disqualified from SNAP benefits for a 12-month penalty period and an Intentional Program Violation (IPV) be established because she withheld information regarding the amount of her income. 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 that the Defendant intentionally made false or misleading statements, or misrepresented, concealed or withheld facts to obtain SNAP benefits. The Movant's evidence demonstrated that the Defendant failed to report income during her August 25, 2021 and March 25, 2022 SNAP reviews.

The Defendant had a responsibility to provide complete and accurate information about her circumstances so that the Movant could make a correct determination about her SNAP eligibility. Further, the Defendant affixed a handwritten signature to her written SNAP review acknowledging that the information contained within the review was true and correct. The evidence demonstrated that the Defendant had the opportunity to report her income but failed to do so as required.

### **CONCLUSIONS OF LAW**

- 1) The Defendant was required to report changes in her income so that the Movant could make a correct determination about her SNAP benefit eligibility.
- 2) The Movant proved by clear and convincing evidence that the Defendant committed an act of IPV to obtain SNAP benefits by intentionally making false or misleading statements, misrepresenting, concealing, and withholding facts regarding her income.
- 3) Because no evidence was entered to establish the Defendant had a previous history of IPV, a first offense SNAP disqualification penalty should be imposed.

### **DECISION**

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation and a first offense 12-month SNAP disqualification penalty period must be imposed, effective September 1, 2022.

ENTERED this 27<sup>th</sup> day of July 2022.

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