



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

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
Raleigh County DHHR
407 Neville Street
Beckley, WV 25801**

**Jolynn Marra
Interim Inspector General**

September 21, 2022

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 22-BOR-1986

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,

Kristi Logan
Certified State Hearing Officer
Member, State Board of Review

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

cc: Birdena Porter, [REDACTED] DHHR

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

██████████,

Defendant,

v.

Action Number: 22-BOR-1986

**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 August 16, 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. The hearing was convened on September 20, 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 should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for twelve (12) months.

At the hearing, the Movant appeared by Birdena Porter, Repayment Investigator. The Defendant was self-represented. Both witnesses were sworn, and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 Hearing Summary
- M-2 SNAP Claim Determination Form
- M-3 SNAP Issuance History-Disbursement Screen and Benefit Details Screen
- M-4 SNAP Allotment Determination Screens
- M-5 Case Members History Screen
- M-6 Case Comments from February – August 2022
- M-7 SNAP Renewal Application Form dated February 1, 2022
- M-8 Letter from Tony Maxwell, Child Protective Services Worker (undated) and ██████████
██████████ Circuit Court Order dated August 17, 2021
- M-9 Advance Notice of Administrative Disqualification Hearing Waiver dated August 12, 2022
- M-10 Waiver of Administrative Disqualification Hearing (unsigned copy)
- M-11 West Virginia Income Maintenance Manual §1.2.4

- M-12 West Virginia Income Maintenance Manual §§11.1 and 11.2
- M-13 West Virginia Income Maintenance Manual §11.6.1
- M-14 Code of Federal Regulations – Title 7 CFR §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 Defendant was a recipient of SNAP benefits for herself and her daughter, [REDACTED]
- 2) [REDACTED] was removed from the Defendant’s home by Child Protective Services on July 21, 2021 (Exhibit M-8).
- 3) The [REDACTED] Circuit Court awarded legal and physical custody of [REDACTED] to the Department of Health and Human Resources on August 17, 2021 (Exhibit M-8).
- 4) [REDACTED] has not resided with the Defendant since July 21, 2021 (Exhibit M-8).
- 5) The Defendant submitted an online SNAP review form on February 1, 2022 at 2:20 am and listed [REDACTED] as a member of her household (Exhibit M-7).
- 6) During a telephone interview conducted on February 8, 2022, the Defendant reported that her household’s only income was [REDACTED] Social Security and Supplemental Security Income (SSI) (Exhibit M-8).
- 7) The Defendant did not report the removal of [REDACTED] from her custody.
- 8) The Defendant has no prior Intentional Program Violation offenses.

APPLICABLE POLICY

Code of Federal Regulations 7 CFR §273.16 (c) defines an Intentional Program Violation as making a false or misleading statement, or misrepresenting, concealing or withholding facts, violating the Food Stamp Program, 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.

Code of Federal Regulations 7 CFR §273.16 (e)(6) states the determination of an Intentional Program Violation will be based 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 §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 states that it is the client's responsibility to provide information about his or her circumstances so the Worker can make a correct decision about his or her eligibility.

West Virginia Income Maintenance Manual §3.2.1.A states when an assistance group (AG) member is absent or is expected to be absent from the home for a full calendar month, he or she is no longer eligible to be included in the SNAP AG and must be removed after advance notice.

DISCUSSION

Federal regulations define an Intentional Program Violation as making a false or misleading statement or withholding information related to the acquisition of SNAP benefits. An individual who is found to have committed an Intentional Program Violation is disqualified from participation in SNAP.

The Defendant contended that her [REDACTED] caseworker assisted her with the SNAP review form due to her learning disability. The Defendant testified that her caseworker asked her the questions from the review form, and she provided the answers. The Defendant purported that her CPS worker advised her to leave her daughter in her case.

The Defendant had the responsibility to report accurate information during her review to ensure the correct eligibility determination could be made regarding her monthly SNAP allotment. The Defendant provided no corroborating evidence to support her contention that she was advised to make a false statement regarding her daughter's residency on the review form or during the subsequent telephone interview. Furthermore, the Defendant submitted her SNAP review form to the Movant online at 2:20 am, which fails to validate her claim that her caseworker assisted her with the form.

The Defendant made false statements on the February 1, 2022 SNAP review form and during the February 8, 2022 telephone interview by reporting that her daughter resided in her home when she had been removed from her care in July 2021. By failing to report the removal of [REDACTED], the Defendant received SNAP benefits for which she was not entitled to receive.

The Defendant's actions meet the definition of an Intentional Program Violation.

CONCLUSIONS OF LAW

- 1) The Defendant made false statements on the February 1, 2022, SNAP review form and subsequent SNAP telephone interview by reporting that [REDACTED] resided in her home.
- 2) The Movant provided evidence that [REDACTED] had been removed from the Defendant's home in July 2021.
- 3) The act of making a false statement 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 12 months.

DECISION

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation. As this is the Defendant's first offense, he will be excluded from participation in the Supplemental Nutrition Assistance Program for 12 months, effective November 1, 2022.

ENTERED this 21st day of September 2022.

Kristi Logan
Certified State Hearing Officer