



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

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
P.O. Box 1736
Romney, WV 26757
304-822-6900**

**Jolynn Marra
Inspector General**

October 6, 2022



RE: [REDACTED] v. WVDHHR
ACTION NO.: 22-BOR-2044

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,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

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

cc: Birdena Porter, WVDHHR

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

[REDACTED],

Defendant,

v.

Action Number: 22-BOR-2044

**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 [REDACTED] requested by the Movant on August 26, 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 convened on October 5, 2022,.

The matter before the Hearing Officer arises from a request by the Movant for a determination as to whether the Defendant committed an Intentional Program Violation and should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for a period of twelve (12) months.

The Movant appeared by Birdena Porter, Repayment Investigator. The Defendant was self-represented. All 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
- M-4 SNAP Allotment Determination
- M-5 **Exhibit not offered or presented
- M-6 **Exhibit struck from record
- M-7 Periodic Report Form dated October 29, 2021
- M-8 Employment Verification Letter dated August 17, 2022
- M-9 Advance Notice of Administrative Disqualification Hearing Waiver dated August 25, 2022
- M-10 Waiver of Administrative Disqualification Hearing (unsigned)

- 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 Movant alleged that the Defendant committed an Intentional Program Violation (IPV) by falsely reporting no income available to the household and requested that a twelve (12) month penalty be imposed. (Exhibit M-10)
- 2) The Defendant was a recipient of SNAP benefits. Included in her household was herself, her husband, and minor child. (Exhibit M-2)
- 3) On October 29, 2021, the Defendant completed a recertification for SNAP benefits, reporting no income available to the household. (Exhibit M-7)
- 4) The household received the maximum monthly SNAP allotment.
- 5) The Movant discovered that the Defendant's husband was employed with [REDACTED] between the dates of August 18, 2021 and April 14, 2022. (Exhibit M-8)
- 6) The Defendant has no previous Intentional Program Violations.

APPLICABLE POLICY

Code of Federal Regulations, 7 CFR §273.16 documents:

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

West Virginia Income Maintenance Manual §1.2.4 documents:

It is the client's responsibility to provide information about his/her circumstances, so the Worker is able to make a correct decision about his/her eligibility.

West Virginia Income Maintenance Manual §11.2.3. B documents:

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.

West Virginia Income Maintenance Manual §3.2.1. B.5 documents

Persons who have been found guilty of an IPV are disqualified as follows:

- First offense – one-year disqualification
- Second offense - two-year disqualification
- Third offense - permanent disqualification

DISCUSSION

The Movant requested an Administrative Disqualification Hearing from the Board of Review citing that the Defendant committed an Intentional Program Violation (IPV) by willfully misrepresenting income available to her household. The Movant request that the Defendant should be disqualified from receiving SNAP benefits for a period of twelve months. For purposes of the Administrative Disqualification Hearing, the Movant must prove by clear and convincing evidence that the Defendant intentionally made false or misleading statements, misrepresented, concealed, or withheld facts to obtain SNAP assistance for which she was not entitled to receive.

On October 29, 2021, the Defendant completed a recertification for SNAP benefits in which she indicated that there was no income available to her household. The Movant claims that the Defendant willfully misrepresented her household circumstances because her husband was employed by [REDACTED] effective August 2021. Evidence revealed that the Defendant's husband was employed from August 18, 2021 through April 14, 2022, when he voluntarily terminated his employment. The inclusion of the employment income would have resulted in the ineligibility for SNAP assistance for the household.

The Defendant testified that she was separated from her husband during the timeframe in question, indicating that her husband did not reside in the household, but would visit the home once every three to four weeks. The Defendant claimed that she had no knowledge of her husband's income

due to the separation.

At the time of recertification for SNAP benefits, the Defendant was afforded the opportunity to provide demographic information regarding her household. Evidence (Exhibit M-7) clearly reveals that the Defendant identified her husband as residing in her household; therefore, the Defendant's proclamation that her husband did not reside with her during the October 2021 recertification for SNAP benefits is unfounded. Additional evidence reveals that the employment earnings would have resulted in the household's ineligibility to receive SNAP benefits (Exhibit M-8). By failing to report household earnings, 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 October 29, 2021 recertification for SNAP benefits by reporting no income available to the household.
- 2) Evidence revealed that the Defendant's husband began receiving employment earnings on August 18, 2021. The income would have resulted in the household's ineligibility for SNAP benefits.
- 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 period of twelve (12) months.

DECISION

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation. The Defendant will be excluded from participation in the Supplemental Nutrition Assistance Program for twelve (12) months effective November 1, 2022.

ENTERED this ____ day of October 2022

Eric L. Phillips
State Hearing Officer