



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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Sheila Lee  
Interim Inspector General

December 6, 2022

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 22-BOR-2093

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: Decision Recourse  
Form IG-BR-29

CC: Adrianna Currence, Investigations and Fraud Management

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

██████████,

**Defendant,**

v.

**ACTION NO.: 22-BOR-2093**

**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 October 12 and November 17, 2022, on an appeal filed with the Board of Review on September 19, 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 Adrianna Currence, Criminal Investigator II. The Defendant did not appear for the hearing. The Movant was sworn in and the following exhibits were entered as evidence.

**Movant's Exhibits:**

- M-1 Memorandum, dated September 21, 2022;  
West Virginia Income Maintenance Manual Excerpts
- M-2 West Virginia Code § 9-5-4
- M-3 Electronic Code of Federal Regulations 7 CFR § 273.16
- M-4 DHHR Combined Application and Review Form, dated February 9, 2017
- M-5 Rights and Responsibilities, Scanned February 9, 2017
- M-6 PRC2 SNAP Interim Contact Form, signed August 31, 2017
- M-7 inROADS SNAP Application, signed February 22, 2018
- M-8 PRC2 SNAP Interim Contact Form, scanned August 20, 2018
- M-9 CSLR SNAP Review Form, signed February 21, 2019

- M-10 PRC2 SNAP Interim Contact Form, signed August 7, 2019
- M-11 PATH SNAP Application, signed July 23, 2020
- M-12 PRC SNAP Interim Contact Form, received January 28, 2021
- M-13 Application for Benefits, signed May 9, 2021
- M-14 [REDACTED] Statement of Account:  
December 12, 2016 through August 11, 2021
- M-15 [REDACTED] Correspondence and Payment History, dated July 8, 2021
- M-16 Employer Verification and Pay Summary, current as of April 3, 2020
- M-17 Report of Overpayment Determination

**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 for a three-person Assistance Group (AG).
- 2) On September 19, 2022, the Movant submitted a Request for an Administrative Disqualification Hearing (ADH) to impose an intentional program violation and a twelve (12) month period of SNAP disqualification upon the Defendant.
- 3) The Request for an ADH provided a summary of evidence the Movant intended to present at the hearing. The evidence list included, "Banking Accounts with [REDACTED] Verification of monthly [REDACTED] Verification of employment with [REDACTED]."
- 4) The Defendant was a recipient of monthly [REDACTED] benefits from January 2017 through July 2021 (Exhibits M-14 and M-15).
- 5) The Defendant received earned income from the [REDACTED] from November 9, 2019 through June 2021 (Exhibits M-14 and M-16).
- 6) The Defendant's bank statements reflect deposits from earned and unearned income sources from January 2017 through August 2021 (Exhibit M-14).
- 7) On February 9, 2017, February 22, 2018, July 23, 2020, and May 9, 2021, the Appellant signed SNAP applications and indicated that the household had no earned or unearned income.
- 8) On August 29, 2017, August 7, 2018, August 7, 2019, and December 20, 2020, the Appellant signed SNAP Interim Contact Forms and indicated that the household had no

earned or unearned income.

### **APPLICABLE POLICY**

**Code of Federal Regulations 7 CFR §§ 273.16(e)(3)(i)-(iii)(C) provides in pertinent parts:**

The state agency shall provide written notice to the individual suspected of committing an intentional program violation at least 30 days in advance of the date a disqualification hearing initiated by the State agency has been scheduled .... The notice shall contain a summary of the evidence and how and where the evidence can be examined.

**Code of Federal Regulations 7 CFR § 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 7 CFR § 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 7 CFR §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 7 CFR §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.

**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 February 2017 through April 2021. The Movant petitioned the Board of Review for an Administrative Disqualification Hearing (ADH) and requested that an Intentional Program Violation (IPV) be established against the Defendant because she withheld reporting her income and falsely reported that she had zero income. The Movant requested that the Defendant be disqualified from SNAP benefits for twelve (12) months. 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.

**Summary of Evidence**

The Defendant is entitled to receive a 30-day advanced notice before the hearing that includes a summary of the evidence the Movant intends to present at the hearing. During the hearing, the Movant submitted additional exhibits — Exhibits M-4 through M-13 and M-17 — that were not included on the Movant's Request for an ADH summary of evidence. Because the evidence revealed the Defendant was provided with an incomplete summary of the evidence before the hearing, the Movant's Exhibits M-4 through M-13 and M-17 were given no weight in the decision of this Hearing Officer.

**Intentional Program Violation**

The Movant is required to consider the AG's income when determining SNAP benefit eligibility. The Defendant had a responsibility to provide accurate information about the AG's income so that the Movant could make a correct determination regarding the AG's SNAP benefit eligibility and benefit allotment amount.

The Movant argued that the Defendant underreported her income between February 2017 and April 2021. The bank account records indicated the Defendant received income from January 2017 through July 2021. Verification documents from the [REDACTED] corroborate that the Defendant was receiving monthly income during the contested period. The testimony revealed that the Defendant failed to record any earned or unearned income on multiple SNAP applications and reviews between February 2017 and May 2021.

The Movant proved by clear and convincing evidence that the Defendant committed an intentional program violation by failing to report earned and unearned income received between February 2017 and May 2021.

### **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 failing to report earned and unearned income received between February 2017 and May 2021.
- 3) Because the Defendant committed an act of 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. It is hereby **ORDERED** that a first-offense twelve-month SNAP disqualification penalty period be imposed against the Defendant, effective January 1, 2023.

ENTERED this 6<sup>th</sup> day of December 2022.

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