



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

Sheila Lee  
Interim Inspector General

November 9, 2022

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 22-BOR-2242

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: Taunya Holden, WVDHHR

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

██████████,

**Defendant,**

v.

**Action Number: 22-BOR-2242**

**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 October 6, 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 November 3, 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 Taunya Holden, Repayment Investigator. The Defendant failed to appear. All witnesses were sworn and the following documents were admitted into evidence.

**Movant's Exhibits:**

- M-1 Code of Federal Regulations – Title 7 CFR §273.16
- M-2 West Virginia Income Maintenance Manual § 1.2.4
- M-3 West Virginia Income Maintenance Manual § 11.2
- M-4 West Virginia Income Maintenance Manual § 11.2.3.A.2
- M-5 West Virginia Income Maintenance Manual § 11.6
- M-6 Computer Printout of SNAP eligibility
- M-7 Redetermination for SNAP benefits dated February 7, 2017

- M-8 Combined Application and Review Form dated October 13, 2017
- M-9 Application for Benefits dated February 18, 2018
- M-10 Combined Application and Review Form dated April 12, 2019
- M-11 Redetermination for SNAP benefits dated October 24, 2021
- M-12 Application for Low Income Energy Assistance Program dated November 20, 2017 and February 15, 2017
- M-13 Application for Emergency Assistance dated October 11, 2017
- M-14 Letter from [REDACTED] dated May 31, 2022
- M-15 Computer printout of [REDACTED] benefits
- M-16 Waiver of Administrative Disqualification Hearing unsigned
- M-17 Advance Notice of Administrative Disqualification Hearing dated September 21, 2022

**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 income available to her household and requested that a twelve (12) month penalty be imposed. (Exhibit M-16)
- 2) The Defendant was notified of the hearing by scheduling order mailed on October 6, 2022, by certified mail. The scheduling order was unclaimed by the Defendant. The Defendant failed to appear for the hearing or provide good cause for her failure to do so. In accordance with 7 CFR §273.16(e)(4)) and West Virginia Department of Health and Human Resources' Common Chapters Manual, §740.20, the hearing was held without the Defendant in attendance.
- 3) The Defendant was a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits from March 1, 2017 through February 28, 2019. (Exhibit M-17)
- 4) The Defendant was a recipient of SNAP benefits from April 4, 2019 through March 31, 2020. (Exhibit M-17)
- 5) The Defendant's household consisted of herself, her son, and a grandchild. (Exhibit M-6)
- 6) On February 7, 2017, the Defendant completed a redetermination for SNAP benefits reporting the only income available to the household as Supplemental Security Income (SSI) in the amount of \$733 per month. (Exhibit M-7)

- 7) On October 13, 2017, the Defendant completed an application for SNAP benefits reporting the only income available to her household as SSI income in the amount \$735 per month. (Exhibit M-8)
- 8) On February 18, 2018, the Defendant completed an application for SNAP benefits reporting no change to the unearned income available to her household. (Exhibit M-9)
- 9) On April 12, 2019, the Defendant completed a redetermination for SNAP benefits reporting SSI income in the amount of \$750 per month. (Exhibit M-10)
- 10) On October 24, 2021, the Defendant completed a redetermination for SNAP benefits reporting SSI income in the amount of \$794 per month. (Exhibit M-11)
- 11) On February 15, 2017 and November 20, 2017, the Defendant completed applications for the Low-Income Energy Assistance Program (LIEAP) reporting SSI income in the amount of \$735 per month. (Exhibit M-12)
- 12) On October 11, 2017, the Defendant completed an emergency assistance application reporting SSI income in the amount of \$735 per month. (Exhibit M-13)
- 13) The Defendant was awarded a [REDACTED] effective August 1, 2014 in the amount of \$547.74 per month. (Exhibit M-14)
- 14) The Defendant received the [REDACTED] pension from August 1, 2014 through September 1, 2022. (Exhibit M-15)
- 15) The Defendant did not report receipt of the [REDACTED] until June 7, 2022. (Exhibit M-14)

### **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 requests that the Defendant be disqualified from receiving SNAP benefits for a period of twelve (12) 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 to which she was not entitled.

The Defendant was a recipient of SNAP benefits from March 1, 2017 through February 28, 2019 and again from April 4, 2019 through March 31, 2020. During that timeframe, the Defendant contacted the Movant by completing several recertifications and applications for benefits. On each occurrence, the Defendant listed Supplemental Security Income as the only income available to the household. The Movant claims that the Defendant willfully misrepresented her financial circumstances by failing to report additional unearned income from a [REDACTED] pension in the amount of \$547.74 per month.

Evidence is clear that the Defendant started receiving a monthly pension from the [REDACTED] on August 1, 2014 and continued to receive such income until May 31, 2022. By failing to report the additional unearned income, the Defendant received SNAP benefits to which she was not entitled. (Exhibit M-6)

During each contact with the Movant, the Defendant was provided the opportunity to provide correct information regarding her household income. Evidence (Exhibit M-14) clearly documents that the Defendant was a recipient of a monthly pension through the [REDACTED] and was receiving such income while receiving SNAP benefits. The Defendant was provided the opportunity to report her correct financial circumstances at each contact with the Movant (Exhibits M-7 through M-13) and failed to report the correct household income. By failing to report household income, the Defendant received SNAP benefits to which she was not entitled.

### **CONCLUSIONS OF LAW**

- 1) The Defendant made false statements at multiple recertifications for SNAP benefits by failing to report her correct amount of unearned income, specifically a [REDACTED] pension.
- 2) Evidence revealed that the Defendant began receiving a monthly [REDACTED] pension on August 1, 2014 in the amount of \$547.74, which she failed to report at each recertification for SNAP benefits.
- 3) The additional income would have reduced the Defendant's SNAP benefit allotment.
- 4) The act of making a false statement to obtain SNAP benefits constitutes an Intentional Program Violation.
- 5) The penalty for a first offense Intentional Program Violation is exclusion from participation in SNAP for a period of twelve (12) months.
- 6) The Defendant's actions meet the definition of an Intentional Program Violation

### **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 December 1, 2022.

**ENTERED this \_\_\_\_ day of November 2022.**

\_\_\_\_\_  
**Eric L. Phillips**  
**State Hearing Officer**