



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

Jeff Coben
Interim Cabinet Secretary

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

Sheila Lee
Interim Inspector General

December 13, 2022

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 22-BOR-2364

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: Recourse to Hearing Decision
Form IG-BR-29

cc: Taunya Holden, [REDACTED] DHHR

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

██████████,

Defendant,

v.

Action Number: 22-BOR-2364

**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 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 was convened on December 1, 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 Taunya Holden, Repayment Investigator. The Defendant failed to appear. The witness was sworn in, and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 Code of Federal Regulations – 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.B.3
- M-5 West Virginia Income Maintenance Manual §11.6
- M-6 Fraud Referral Form dated August 18, 2021, Benefit Recovery Referral dated April 1, 2022, SNAP Claim Determination Form, SNAP Claim Calculation Sheets, SNAP Allotment Determination Screens, Non-Financial Eligibility Determination Screens, and SNAP Issuance History-Disbursement Screens
- M-7 Statement from ██████████ dated May 19, 2022
- M-8 Statement from ██████████ dated July 9, 2021 and statement submitted by Defendant dated June 14, 2019
- M-9 SNAP Application dated June 6, 2019

- M-10 SNAP Review Form dated November 27, 2020
- M-11 SNAP 6 or 12-Month Contact Form received June 22, 2021
- M-12 Advance Notice of Administrative Disqualification Waiver dated October 7, 2022
- M-13 Waiver of Administrative Disqualification Hearing (unsigned copy)

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 her household composition and requested that a twelve (12) month penalty be imposed against her.
- 2) The Defendant was notified of the hearing by scheduling order mailed on November 1, 2022. 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 applied for SNAP benefits on June 6, 2019, for herself and her siblings, [REDACTED] and [REDACTED] (Exhibit M-9).
- 4) [REDACTED] and [REDACTED] were receiving WV WORKS benefits in their grandmother's case but were not receiving SNAP benefits.
- 5) The Defendant submitted a statement signed by [REDACTED] grandmother, dated June 14, 2019, stating the children "stay (sic) with (Defendant) every week and every other weekend to help me out" (Exhibit M-8).
- 6) SNAP benefits were approved for the Defendant for a three-person assistance group (Exhibit M-6).
- 7) The Defendant submitted a SNAP review form on November 27, 2020, and a SNAP interim contact form on June 22, 2021, and continued to report [REDACTED] as members of her household.
- 8) The Movant confirmed with [REDACTED] that [REDACTED] never resided with the Defendant and that she did not write the statement submitted on June 14, 2019, attesting to that information (Exhibits M-7 and M-8).

APPLICABLE POLICY

Code of Federal Regulations, 7 CFR §273.16, states that 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 §11.2.3.B states that 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 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
- 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/her circumstances, so the Worker is able to make a correct decision about his/her eligibility.

West Virginia Income Maintenance Manual §3.2.1.A states the SNAP AG must include all eligible individuals who both live together and purchase food and prepare meals together.

DISCUSSION

Federal regulations define an Intentional Program Violation as making a false statement 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 applied for SNAP benefits for her siblings in June 2019 and provided a statement allegedly written [REDACTED] supporting the Defendant's claim that the children resided with her every week and every other weekend. The Movant provided statements from [REDACTED] disputing that the children had ever resided with the Defendant or that she had written the statement submitted to the Movant.

The Defendant made false statements on the June 2019 SNAP application and subsequent SNAP review and interim contact forms by reporting that her siblings split their time with their grandmother and the Defendant's residence when the evidence submitted contradicted her claim. The Defendant did not appear for the hearing to dispute the allegations.

CONCLUSIONS OF LAW

- 1) The Defendant made false statements on the June 6, 2019, SNAP application and subsequent SNAP interim contact and review form by reporting that [REDACTED] resided in her home.
- 2) The Movant provided evidence that [REDACTED] resided with their grandmother.
- 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 January 1, 2023.

ENTERED this 13th day of December 2022.

Kristi Logan
Certified State Hearing Officer

