



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of the Inspector General
Board of Review**

**Jeffrey H. Coben, MD
Interim Cabinet Secretary**

**Sheila Lee
Interim Inspector General**

May 4, 2023

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 23-BOR-1334

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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

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

cc: Anisha Eye, WVDHHR

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

██████████,

Defendant,

v.

Action Number: 23-BOR-1334

**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 March 7, 2023. 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 April 18, 2023.

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 thus be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Department appeared by Anisha Eye, Repayment Investigator, WVDHHR. All witnesses were sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 Hearing Summary
- M-2 Case Members History
- M-3 SNAP Issuance History- Disbursement
- M-4 Food Stamp Allotment Determinations
- M-5 Non-Financial Eligibility Determination
- M-6 Food Stamp Claim Determination
- M-7 Food Stamp Claim Calculation Sheet
- M-8 SNAP and Medicaid review form signed by Defendant on June 7, 2022
- M-9 SNAP application received by Respondent on January 25, 2023
- M-10 Case Comments from Movant's computer system
- M-11 Juvenile Court of ██████████, Initial Order Upon Filing of Petition, entered on November 10, 2021
- M-12 Circuit Court of ██████████, Disposition Hearing/Termination Order, dated March 3, 2022

M-13	Circuit Court of [REDACTED] Permanency Hearing Order, dated July 22, 2022
M-14	Waiver of Administrative Disqualification Hearing
M-15	Advance Notice of Administrative Disqualification Hearing Waiver dated February 23, 2023
M-16	West Virginia Income Maintenance Manual Chapters 1.2.4 and 11.2
M-17	Code of Federal Regulations Section 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) A request for an Administrative Disqualification Hearing was received by the Board of Review from the West Virginia Department of Health and Human Resources, hereinafter referred to as Movant, on March 7, 2023.
- 2) A hearing on the matter was scheduled for 11 a.m. on April 18, 2023.
- 3) The Defendant was notified of the hearing by Scheduling Order mailed on March 14, 2023.
- 4) The Defendant failed to appear for the hearing or provide good cause for her failure to attend. 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.
- 5) The Movant contends that the Defendant committed an Intentional Program Violation (IPV) and recommends that the Defendant be disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, for a period of 12 months.
- 6) The Movant's Investigations and Fraud Management (IFM) Unit received a referral regarding the Defendant's SNAP case on January 26, 2023.
- 7) The referent alleged that the Defendant's infant daughter, [REDACTED], was not residing in the Defendant's home as the Defendant had reported.
- 8) [REDACTED] was born on November 5, 2021 (Exhibit M-2).

- 9) The Defendant reported that [REDACTED] resided in her household on a May 16, 2022, SNAP and Medicaid review form (Exhibit M-8).
- 10) On January 20, 2023, the Defendant reported during a SNAP application telephone interview that her boyfriend, [REDACTED], and their daughter, [REDACTED], resided with her in the household (Exhibit M-10).
- 11) The Juvenile Court of [REDACTED] found that [REDACTED] physical and mental health was in imminent danger and [REDACTED] was placed in the custody of the Department of Health and Human Resources in an Order entered on November 10, 2021 (Exhibit M-11).
- 12) The parental rights of both the Defendant and [REDACTED] were permanently terminated by [REDACTED] Circuit Court in March 2022 (Exhibit M-12).
- 13) [REDACTED] Circuit Court documents reveal that [REDACTED] resided with her grandparents upon her release from the hospital following birth (Exhibit M-13).
- 14) As a result of inaccurate information provided to the Movant regarding household composition, the Defendant received \$1,322 in SNAP benefits to which she was not entitled for the period of July 2022 through December 2022 (Exhibits M-2, M-3, M-4, M-5, M-6, and M-7).

APPLICABLE POLICY

Code of Federal Regulations Section 273.16.c.1 states that an Intentional Program Violation includes committing an act that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing, or trafficking of coupons, authorization cards, or reusable documents as part of an automated benefit delivery system (access device) (Exhibit M-17).

West Virginia Income Maintenance Manual Chapter 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 (Exhibit M-16).

West Virginia Income Maintenance Manual Chapter 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 Chapter 1.2.4 states that it is the client's responsibility to provide complete and accurate information about his or her circumstances so that a worker can make a correct eligibility determination (Exhibit M-16).

DISCUSSION

Regulations specify that an Intentional Program Violation includes committing an act that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing, or trafficking of coupons, authorization cards, or reusable documents as part of an automated benefit delivery system (access device). IPV's include making false or misleading statements, misrepresenting facts, or concealing or withholding information. An individual found to have committed an IPV is ineligible to receive SNAP benefits for a specified time, depending on the number of offenses committed.

While the Defendant reported on two occasions that [REDACTED] was a member of her household, court documents reveal that [REDACTED] did not reside with the Defendant following her birth. The Department of Health and Human Resources was granted custody of the infant following her birth, and the child resided with her grandparents upon release from the hospital.

Based on information provided during the hearing, the Defendant committed an Intentional Program Violation by providing false information concerning her household composition.

CONCLUSIONS OF LAW

- 1) An Intentional Program Violation can be established when an individual misrepresents his/her case circumstances.
- 2) The Defendant incorrectly reported that her infant daughter was a member of her household and received SNAP benefits to which she was not entitled.
- 4) The Movant provided clear and convincing evidence to support the imposition of an Intentional Program Violation based on the Defendant's misrepresentation of household composition.
- 5) The Movant's proposal to apply an Intentional Program Violation to the Defendant's SNAP benefits is affirmed.

DECISION

The State Hearing Officer finds that the Defendant committed an Intentional Program Violation. The Movant's proposal to impose a 12-month IPV penalty on SNAP benefits is **UPHELD**. The penalty is effective June 2023.

ENTERED this 4th Day of May 2023.

Pamela L. Hinzman
State Hearing Officer