



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
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Jeffrey H. Coben, M.D.
Interim Cabinet Secretary

Sheila Lee
Interim Inspector General

February 08, 2023

[REDACTED]

Re: [REDACTED] v. WV DHHR
ACTION NO.: 22-BOR-2587

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,

Angela D. Signore
State Hearing Officer
Member, State Board of Review

Encl: Recourse to Hearing Decision
Form IG-BR-29
cc: Emily Shumate, Department Representative

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

██████████,

Defendant,

v.

Action Number: 22-BOR-2587

**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 December 09, 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. This fair hearing was concerned on January 18, 2023.

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 (IPV) and should therefore be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for twelve (12) months.

At the hearing, the Movant appeared by Emily Shumate, Repayment Investigator, Investigations and Fraud Management (IFM). The Defendant appeared *pro se*. Both witnesses were sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 ADH Hearing Summary Completed by Emily Shumate, dated January 09, 2023
- M-2 WV PATH eligibility system printout of Case Members History, dated January 09, 2023
- M-3 WV PATH eligibility system printout of SNAP Issuance History, dated May 2021 through November 2022
- M-4 WV PATH eligibility system printout of Food Stamp Allotment Determination, dated September, October, and November 2021, March, April, September, October, and November 2022
- M-5 WV PATH eligibility system printout of Non-Financial Eligibility Determination, dated March, September, October, and November 2021, March, April, September,

October, and November 2022

M-6 WV PATH eligibility system printout of Case Comments, dated June 26, 2021 through September 06, 2022

M-7 SNAP Benefit Review, dated July 16, 2021

M-8 SNAP Benefit Review, dated January 18, 2022

M-9 SNAP Benefit Review, dated July 11, 2022

M-10 WV Medicaid Benefit Review, dated July 11, 2022

M-11 Employment Verification and Wages for [REDACTED], dated October 12, 2022

M-12 Address Verification for [REDACTED], dated October 12, 2022

M-13 Driver History Inquiry for [REDACTED], dated October 06, 2022

M-14 Waiver of Administrative Disqualification Hearing, unsigned

M-15 Advance Notice of Administrative Disqualification Hearing Waiver, dated November 21, 2022

M-16 West Virginia Income Maintenance Manual (WVIMM) §§ 1.2.4 - 1.2.5, 11.2.1 - 11.2.7, 11.6.1 - 11.6.2

M-17 Code of Federal Regulations 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 Investigation and Fraud Management (IFM) Unit of West Virginia Department of Health and Human Resources (WVDHHR) alleged an act of Intentional Program Violation (IPV) by the Defendant for withholding information regarding household composition in her Assistance Group (AG) resulting in an over-issuance of SNAP and is requesting that she be disqualified from participation in SNAP for a period of twelve (12) months.
- 2) The Defendant was a recipient of SNAP benefits for a three (3) person AG.
- 3) On August 05, 2021, March 09, 2022 and August 03, 2022, the Defendant completed a SNAP review and reported that her household consisted of herself and her two (2) children. (Exhibits M-6 through M-9)
- 4) The Defendant reported there was no source of income in her AG on the August 05, 2021, March 09, 2022 and August 03, 2022 SNAP review forms. (Exhibits M-6 through M-9)
- 5) The Defendant signed the SNAP review forms and consented that the information contained was true and correct to the best of her knowledge. (Exhibits M-7 through M-9)
- 6) On July 11, 2022, a Medicaid Review form was issued to [REDACTED] at the

Defendants [REDACTED] address. (Exhibit M-10)

- 7) On August 02, 2022, [REDACTED] submitted the completed Medicaid Review and reported [REDACTED] as his current address. (Exhibit M-10)
- 8) [REDACTED] signed the Medicaid Review form and consented that the information contained was true and correct to the best of his knowledge. (Exhibit M-10)
- 9) On October 06, 2022, the Movant submitted an Address Information Request to the United States Postal Service (USPS) [REDACTED] which reported [REDACTED] as the current address. (Exhibit M-13)
- 10) On October 06, 2022, the Movant requested a Driver History Inquiry for [REDACTED] which reported [REDACTED] as the current Drivers License address issued on June 09, 2021. (Exhibit M-13)
- 11) On October 12, 2022, the Movant requested Employment and Wage Verification for [REDACTED] through [REDACTED]. (Exhibit M-11)
- 12) On October 26, 2022, employment data for [REDACTED] was returned to the Movant which reported an employment date of July 26, 2021, and [REDACTED] as his current address. (Exhibit M-11)
- 13) The Defendant has no previous history of Intentional Program Violations (IPVs). (Exhibits M-1, M-14, and M-15)

APPLICABLE POLICY

Code of Federal Regulations (CFR) § 273.1(a)(b)(iii) provides, in part:

A child (other than a foster child) under 18 years of age who lives with and is under the parental control of a household member other than his or her parent. A child must be considered to be under parental control for purposes of this provision if he or she is financially or otherwise dependent on a member of the household, unless State law defines such a person as an adult.

CFR § 273.16 provides, in part:

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

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 his circumstances so that the Worker is able to make a correct determination about his eligibility.

WV IMM § 3.2.1.A.4 provides, in part:

Natural or adopted children and stepchildren who are under 22 years of age and who live with a parent must be in the same AG as that parent.

WV IMM § 3.2.1.B.5 provides, in part:

Persons who have been found guilty for an IPV are disqualified as follows: First offense, One-year disqualification; Second offense, Two-year disqualification; and Third offense, permanent disqualification.

WVIMM §§ 6.1-6.1.2 Data Exchanges provides, in part:

Federal Data Hub and Income and Eligibility Verification System (IEVS) are electronic sources that perform data matches to verify types of income/assets. Data exchange information available at application and review may be used by the Worker to evaluate discrepancies in the client's statement when it disagrees with Hub data.

Information is provided to the Worker through data exchanges. Information obtained through IEVS is used to verify the eligibility of the AG, to verify the proper amount of benefits, and to determine if the AG received benefits to which it was not entitled.

WV IMM § 11.2.3.B provides, in part:

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.

WV IMM § 11.6.1 provides, in part:

A willfully false statement is one that is deliberately given, with the intent that it be accepted as true, and with the knowledge that it is false.

DISCUSSION

Federal regulations define an Intentional Program Violation (IPV) as making a false statement related to the acquisition of Supplemental Nutrition Assistance Program (SNAP) benefits. The Movant requested the Administrative Disqualification Hearing to determine whether the Defendant committed an IPV and should be disqualified from SNAP benefits for a period of twelve (12) months. The Movant must provide clear and convincing evidence that the Defendant intentionally made false statements, concealed, or withheld facts concerning her SNAP eligibility.

On August 05, 2021, the Defendant [REDACTED] completed a SNAP review and reported that [REDACTED] was no longer living in the same household. When completing the SNAP review form, [REDACTED] reported that her household composition consisted of only herself and her two (2) children and reported there was no source of income in her Assistance Group (AG). She signed the forms and consented that the information provided was true and correct to the best of her knowledge. On March 09, 2022, [REDACTED] completed an additional SNAP review and again reported that her household composition consisted of only herself and her two (2) children and that there was no source of income in her AG. [REDACTED] signed the review form and consented that the information provided was true and correct to the best of her knowledge.

On August 02, 2022, [REDACTED] ([REDACTED]) submitted a Medicaid review form and reported [REDACTED] as his current address. [REDACTED] signed the Medicaid review form and consented that the information contained was true and correct to the best of his knowledge. Subsequent to [REDACTED] Medicaid review form, on August 03, 2022, [REDACTED] completed a SNAP review and again reported that her household composition consisted of only herself and her two (2) children and reported there was no source of income in her AG. [REDACTED] signed the review form and consented that the information provided was true and correct to the best of her knowledge.

On August 04, 2022, the Investigation and Fraud Management (IFM) Unit of West Virginia Department of Health and Human Resources (WVDHHR) received a referral for an act of an IPV by the Defendant for withholding information regarding household composition in her AG resulting in an over-issuance of SNAP. The Movant, through its investigation, by way of [REDACTED], confirmed that [REDACTED] provided [REDACTED] as his address and began receiving monthly earned income on July 26, 2021 - during and beyond the date of [REDACTED] August 05, 2021, March 09, 2022 and August 03, 2022 SNAP benefit reviews. On October 06, 2022, the Movant requested a Department of Motor Vehicles (DMV) Driver History Inquiry, as well as an Address Information Request to the United States Postal Service (USPS) [REDACTED] Post Office (PO) for [REDACTED], both of which reported [REDACTED] current address as [REDACTED].

At the time of the hearing, the Appellant testified that she was advised that [REDACTED] “could still stay here” as long as they did not have a shared income and they purchased and prepared meals separately. She further testified to being “unaware” they were doing anything wrong, but acknowledges after hearing the Movant’s testimony, that because they share a child together, his income must be included in her AG.

Per policy, as the father of the Defendant’s child(ren), [REDACTED] and his income were required to be considered when determining the household’s eligibility for SNAP benefits. The Movant established by clear and convincing evidence the Defendant made false statements to acquire SNAP benefits she was not entitled to receive, thereby meeting the definition of an IPV. Pursuant

to regulations, individuals found to have committed an IPV through an ADH shall be ineligible to participate in SNAP for a specified time, depending on the number of offenses committed. Because the Defendant had no previous history of IPV disqualification penalties, a first-offense twelve (12) month disqualification penalty will be imposed, beginning in accordance with timelines established in federal regulations.

CONCLUSIONS OF LAW

- 1) The Movant, through [REDACTED] employer, the WV DMV, and the USPS, provided evidence that the Defendant made false statements regarding her household composition on SNAP review forms received August 05, 2021, March 09, 2022 and August 03, 2022.
- 2) [REDACTED] was required by policy to be included in the Defendant's SNAP assistance group.
- 3) The act of making false statements 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 a 12-month period.

DECISION

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation (IPV). The Defendant will be disqualified from receipt of SNAP benefits for a period of twelve (12) months, beginning March 01, 2023.

ENTERED this ____ day of February 2023.

Angela D. Signore
State Hearing Officer