



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

January 26, 2017

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 16-BOR-3084

Dear Ms. [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: Claimant's Recourse to Hearing Decision
Form IG-BR-29

cc: Debra Carey, WVDHHR

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

██████████,

Defendant,

v.

Action Number: 16-BOR-3084

**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 November 30, 2016. 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 Section 273.16. The hearing was convened on January 11, 2017.

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

At the hearing, the Movant appeared by Debra Carey, Repayment Investigator, WVDHHR. The Defendant failed to appear.

All participants were sworn and the following documents were admitted into evidence.

Movant's Exhibits:

M-1	ADH Summary
M-2	Benefit Recovery Referral
M-3	SNAP application signed by Defendant on May 12, 2014
M-4	Six-Month Contact Review Form signed by Defendant on October 19, 2015
M-5	Case Household Information
M-6	Wage History information for ██████████
M-7	Verification of Defendant's income
M-8	Case Comments
M-9	Food Stamp Claim Calculation Sheets

M-10	Food Stamp Allotment Determination
M-11	SNAP Issuance History- Disbursement
M-12	Case Members History
M-13	Advance Notice of Administrative Disqualification Hearing Waiver dated November 10, 2016 and Waiver of Administrative Disqualification Hearing
M-14	West Virginia Income Maintenance Manual Chapter 1.2
M-15	West Virginia Income Maintenance Manual Chapter 9.1
M-16	West Virginia Income Maintenance Manual Chapters 20.1 and 20.2
M-17	Code of Federal Regulations Section 273.16

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 Movant, on November 30, 2016. The Movant contends that the Defendant has committed an Intentional Program Violation (IPV) and is recommending that the Defendant be disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, for a period of 12 months.
- 2) Notification of the January 11, 2017, hearing was mailed to the Defendant on or about December 1, 2016, via First Class U.S. Mail.
- 3) The hearing convened as scheduled at 11 a.m., and as of 11:15 a.m., the Defendant failed to call in for the telephone hearing. As set forth in the Code of Federal Regulations found at §7 CFR 273.16 (e) (4), and the West Virginia Department of Health and Human Resources Common Chapters Manual Chapter 740.20, the hearing was conducted without the Defendant in attendance.
- 4) Debra Carey, Repayment Investigator for the Movant, testified that the Defendant was a recipient of SNAP benefits when the Movant received a New Hire alert for [REDACTED], a member of the Defendant's SNAP Assistance Group and father of the Defendant's children (see Exhibit M-8). The Movant sent the Defendant a verification checklist, requesting income verification for Mr. [REDACTED] however, the information was not provided and the Defendant's case was closed.
- 5) The Defendant completed a SNAP application on May 12, 2014 (M-3) and reported that Mr. [REDACTED] was no longer living in her home.

- 6) On December 3, 2014, a Department worker contacted the Defendant and requested verification that Mr. [REDACTED] was not living in her home. The Defendant responded and indicated that Mr. [REDACTED] was living in the home at that time (see Exhibit M-8).
- 7) The Defendant completed a case redetermination on May 12, 2015 (see Exhibit M-8) and Mr. [REDACTED] was again reported to be out of the home. He was reported to be back in the home on July 17, 2015.
- 8) The Defendant reported that Mr. [REDACTED] was out of the home on October 8, 2015, and she completed a contact form on October 19, 2015 (M-4). Case Comments (M-8) indicate that the worker completed a passive SNAP redetermination on October 27, 2015, and no changes in Assistance Group or household composition were noted.
- 9) The Movant received a repayment referral (M-2), indicating that Mr. [REDACTED] was in the home during all times he was reported absent. Investigator Carey indicated that Mr. [REDACTED] had earned income during the times he was reported absent, and the Defendant reported that he was back in the home at times when he had no income.
- 10) Income verification for Mr. [REDACTED] indicates that he started work with [REDACTED], dba [REDACTED] on March 22, 2014, and [REDACTED], dba, [REDACTED] on July 24, 2014 (M-6). At those times, he reported that his address was the same as the Defendant's address. On August 15, 2015, Mr. [REDACTED] started work at [REDACTED], again reporting the Defendant's address as his address.
- 11) Investigator Carey testified that the Movant's Information and Fraud Management Unit contacted the manager of [REDACTED] (the Defendant's place of residence) and was informed that Mr. [REDACTED] had always resided with the Defendant.
- 12) The Defendant signed the May 12, 2014 application, certifying that she had provided accurate information to the Movant. She signed her October 19, 2015 contact form, again certifying that she had provided truthful information.
- 13) As a result of the incorrect information, the Defendant's Assistance Group received \$2,260 in SNAP benefits to which it was not entitled (see Exhibits M-9, M-10 and M-11).

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 9.1.A(2) (M-15) states that children under the age of 22 living with a parent must be in the same SNAP Assistance Group as that parent.

West Virginia Income Maintenance Manual Chapter 20.2.C.2 (M-16) states that Intentional Program Violations for the SNAP include making false or misleading statements, misrepresentations, 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.

Code of Federal Regulations Section 273.16.c.2 (M-17) states that an Intentional Program Violation includes violating regulations concerning the use, presentation, transfer, acquisition, receipt, possession or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system (access device).

West Virginia Income Maintenance Manual Chapter 20.2(C)(2) (M-16) provides that once an IPV (Intentional Program Violation) is established, a disqualification penalty is imposed on the AG members who committed the IPV. The penalties are as follows: (Chapter 9.1, A, 2, h) 1st Offense: 1 year (Disqualification); 2nd Offense: 2 years (Disqualification); 3rd Offense: Permanent.

DISCUSSION

Federal regulations specify that an Intentional Program Violation includes violating regulations concerning the use, presentation, transfer, acquisition, receipt, possession or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system (access device). If an Intentional Program Violation is discovered, a disqualification penalty is imposed.

The Defendant reported that the father of her children did not reside in her household during various time periods in 2014 and 2015. However, the Movant determined that Mr. [REDACTED] was residing in the Defendant's household via collateral contact and income verification indicating that Mr. [REDACTED] and the Defendant reported the same address. As Mr. [REDACTED] and his income were not considered during the times he was incorrectly reported out of the home, the Defendant received \$2,260 in SNAP benefits to which she was not entitled, and the Movant has correctly pursued the imposition of an Intentional Program Violation penalty.

CONCLUSION OF LAW

The Movant acted correctly in proposing the Defendant's disqualification from the SNAP based on the commission of an Intentional Program Violation. The one-year disqualification period will begin effective March 2017.

DECISION

The Movant's proposal to apply a one (1)-year SNAP benefit disqualification is **upheld**.

ENTERED this 26th Day of January 2017.

**Pamela L. Hinzman
State Hearing Officer**