



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

Bill J. Crouch
Cabinet Secretary

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

M. Katherine Lawson
Inspector General

February 6, 2018

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-2813

Dear Mr. [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
State Hearing Officer
Member, State Board of Review

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

cc: Anisha Eye, [REDACTED] County DHHR

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

██████████,

Defendant,

v.

Action Number: 17-BOR-2813

**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 13, 2017. 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 January 23, 2018.

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

At the hearing, the Movant appeared by Anisha Eye, Repayment Investigator. The Defendant failed to appear. The Movant's representative was sworn and the following documents were admitted into evidence.

Movant's Exhibits:

M-1	Hearing Summary
M-2	SNAP Claim Determination Forms
M-3	SNAP Claim Calculation Sheets
M-4	SNAP Allotment Determination Screen Prints
M-5	Non-Financial Eligibility Determination Screen Prints
M-6	SNAP Issuance History-Disbursement Screen Prints
M-7	Case Members History Screen Print
M-8	Case Comments from August 2015 through June 2017

- M-9 Statement from [REDACTED] dated October 18, 2017
- M-10 Statement from [REDACTED] dated October 18, 2017
- M-11 Final Adoption Order from Circuit Clerk of [REDACTED] County, West Virginia dated June 5, 2015 (excerpt)
- M-12 Client Contact Reports from July 2014 through October 2014
- M-13 SNAP 6 or 12 Month Contact Form (PRC2) dated January 26, 2016
- M-14 SNAP and Medicaid Review Form (CSLR) dated July 12, 2016
- M-15 SNAP 6 or 12 Month Contact Form (PRC2) dated January 20, 2017
- M-16 Advance Notice of Administrative Disqualification Hearing Waiver dated October 19, 2017
- M-17 West Virginia Income Maintenance Manual §§1.2(E) and 20.1; Code of Federal Regulations – 7 CFR §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) The Movant alleged that the Defendant committed an Intentional Program Violation (IPV) by falsely reporting his household composition and requested that a twelve (12) month penalty be imposed against him.
- 2) The Defendant was notified of the hearing by scheduling order mailed on December 7, 2017. The Defendant failed to appear for the hearing or provide good cause for his failure to do so. In accordance to 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 reported that [REDACTED] and her daughter, [REDACTED], moved into his home in January 2016, and requested that they be added to his SNAP benefits (Exhibit M-8).
- 4) The Defendant submitted a SNAP and Medicaid review form to the Movant on July 12, 2016. He reported that his household consisted of himself, Ms. [REDACTED] and her daughter (Exhibit M-8 and M-14).
- 5) The Defendant submitted a SNAP contact form on January 20, 2017. He reported Ms. [REDACTED] and her daughter continued to reside in his home (Exhibit M-8 and M-15).
- 6) The Movant discovered that the [REDACTED] daughter had been removed from her custody by Child Protective Services in July 2014 and was placed with [REDACTED], who adopted her in June 2015 (Exhibit M-9, M-10, M-11 and M-12).

APPLICABLE POLICY

Code of Federal Regulations, 7 CFR §273.16, establishes 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 §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 §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; and Third offense, Permanent disqualification.

West Virginia Income Maintenance Manual §3.2.A.1 states the SNAP assistance group (AG) must include all eligible individuals who both live together and purchase food and prepare meals together. When an AG member is absent or is expected to be absent from the home for a full calendar month, he or she is no longer eligible to be included in the AG, and must be removed after advance notice.

DISCUSSION

Federal regulations define an Intentional Program Violation as making a false statement related to the acquisition of SNAP benefits.

The Defendant made false statements on his July 2016 and January 2017 SNAP review forms by reporting child [REDACTED] resided in his home, when she had been residing with [REDACTED] since 2014.

The Defendant's actions meet the definition of an Intentional Program Violation.

CONCLUSIONS OF LAW

- 1) The Defendant made false statements on his July 2016 and January 2017 review forms reporting that child [REDACTED] resided in his home.

- 2) The Movant provided irrefutable evidence that the child [REDACTED] never resided in the Defendant's household.
- 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 SNAP for 12 months, effective March 2018.

ENTERED this 6th day of February 2018

**Kristi Logan
State Hearing Officer**