



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-2905

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,

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-2905

**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 4, 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 Form
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 December 2016 through July 2017
M-9	SSI Information Response Screen Prints
M-10	Screen Prints from www.Facebook.com dated January 1, 2017, January 23, 2017 and May 23, 2017
M-11	Vehicle System Master Inquiry Screen Print
M-12	Employee Wage Data Screen Print, Wage History from [REDACTED], and Wage History from [REDACTED]
M-13	Application for Benefits dated January 3, 2017
M-14	Application for Emergency Assistance dated January 17, 2017
M-15	Advance Notice of Administrative Disqualification Hearing Waiver dated November 7, 2017
M-16	West Virginia Income Maintenance Manual §1.2(E)
M-17	West Virginia Income Maintenance Manual §20
M-18	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 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 December 7, 2017. The Defendant failed to appear for the hearing or provide good cause for her 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 was a recipient of SNAP benefits for herself, her husband [REDACTED], and their daughter.
- 4) In November 2016, the Movant received information that Mr. [REDACTED] had unreported earned income with [REDACTED] (Exhibits M-8 and M-12).
- 5) SNAP benefits were terminated in December 2016 when verification of Mr. [REDACTED] earnings had not been provided (Exhibit M-8).
- 6) The Defendant reapplied for SNAP benefits on January 3, 2017. She reported being estranged from her husband, although he continued to pay the shelter and utility costs for their home due to having no income for herself (Exhibits M-8 and M-13).

- 7) The Defendant applied for Emergency Assistance on January 23, 2017. She reported her household consisted of herself and her daughter (Exhibit M-14).
- 8) The Movant conducted an investigation into the Defendant's household composition and determined that Mr. [REDACTED] continued to reside with the Defendant throughout her receipt of SNAP benefits.
- 9) On January 1, 2017, the Defendant posted on her husband's Facebook page "Happy New Years from me n [REDACTED] [sic]" (Exhibit M-10).
- 10) On January 23, 2017, [REDACTED] posted on his Facebook page "Happy anniversary to my wife [REDACTED] 29 years of being with me" (Exhibit M-10).
- 11) On May 23, 2017, Mr. [REDACTED] posted "Birthday wishes to my loving wife [REDACTED]" (Exhibit M-10).
- 12) In February 2017, a 2003 Pontiac Grand Am was registered with the Department of Motor Vehicles in both the Defendant's and Mr. [REDACTED] names (Exhibit M-11).
- 13) [REDACTED] was hired by [REDACTED] on February 2, 2017. He listed his address as that of the Defendant's (Exhibit M-12).
- 14) The Defendant applied for Supplemental Security Income (SSI) and was denied effective March 2017 due to excessive income (Exhibit M-9).
- 15) During an interview with the Defendant on November 30, 2017, regarding her household composition, the Defendant reported that her husband was in and out of the household from January through June 2017 (Exhibit M-1).

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 3.2.A.2 state the SNAP assistance group (AG) must include all eligible individuals who both live together and purchase food and prepare meals together. Spouses, who are legally married to each other under provisions of state law or those moving to West Virginia from states that recognize their relationship as a legal marriage, must be included in the same SNAP AG.

DISCUSSION

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

The Defendant reported that her husband no longer resided in her home on her January 2017 SNAP application. The Movant provided posts from Mr. [REDACTED] Facebook page indicating that the Defendant and Mr. [REDACTED] were not separated as reported by the Defendant.

[REDACTED] continued to list the Defendant's address as his own when registering a vehicle jointly with the Defendant, and when he was hired at [REDACTED] in February 2017.

Additionally, the Defendant's application for SSI benefits was denied effective March 2017 due to excessive income, when the Defendant had reported no income for herself. Mr. [REDACTED] earnings were excessive for the Defendant's household to receive SNAP benefits had he been included in the assistance group.

Based on the totality of the evidence provided, and the Defendant's failure to attend the hearing to refute the allegations, the Movant established that the Defendant made a false statement on her January 2017 SNAP application by reporting that her husband did not reside with her.

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

CONCLUSIONS OF LAW

- 1) The Defendant made a false statement on her January 2017 SNAP application by reporting that her husband did not reside in her home.
- 2) The Movant provided clear and convincing evidence that the Defendant's husband resided in her home, and his earned income exceeded the allowable limit for the Defendant to receive SNAP benefits.

- 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**