



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

**Bill J. Crouch**  
**Cabinet Secretary**

**Jolynn Marra**  
**Interim Inspector General**

November 22, 2019

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 19-BOR-2477

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

cc: Emily Shumate, WVDHHR

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

[REDACTED],

**Defendant,**

v.

**Action Number: 19-BOR-2477**

**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 [REDACTED] requested by the Movant on September 30, 2019. 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 November 7, 2019.

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 Emily Shumate, Repayment Investigator, WVDHHR. The Defendant failed to appear.

The witness was sworn and the following documents were admitted into evidence.

**Movant's Exhibits:**

- |      |  |
|------|--|
| M-1  | ADH Hearing Summary  |
| M-2  | Case Members History   |
| M-3  | SNAP Issuance History-Disbursement history                               |
| M-4  | Food Stamp Allotment Determination history                               |
| M-5  | Non-Financial Eligibility Determination history                          |
| M-6  | Court Order List for [REDACTED]  |
| M-7  | Case Comments history  |
| M-8  | Medicaid redetermination form signed by Defendant on September 12, 2017  |
| M-9  | SNAP/Medicaid redetermination form signed by Defendant on April 19, 2018 |
| M-10 | SNAP 6 or 12 Month Contact Form signed by Defendant on October 30, 2018  |
| M-11 | Medicaid redetermination form signed by Defendant on March 19, 2019      |

M-12	SNAP redetermination form signed by Defendant on April 30, 2019
M-13	Waiver of Administrative Disqualification Hearing form
M-14	Advance Notice of Administrative Disqualification Hearing Waiver dated September 13, 2019
M-15	West Virginia Income Maintenance Manual Chapters 1.2.4, 11.2 and 11.6
M-16	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 referred to as Movant, on September 30, 2019.
- 2) The Movant contends that the Defendant has 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.
- 3) Notification of the November 7, 2019 hearing was mailed to the Defendant on or about October 1, 2019 via First Class U.S. Mail.
- 4) The hearing convened as scheduled at 10:30 a.m. on November 7, 2019, and as of 10:45 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.
- 5) The Movant's Investigations and Fraud Management (IFM) Unit received a referral on June 13, 2019 indicating that the Defendant's husband, [REDACTED], had been incarcerated since September 1, 2017.
- 6) The Defendant initially failed to report her husband's incarceration on a Medicaid redetermination form on September 12, 2017 (M-8), and during a telephone call to the Movant's office on September 27, 2017, at which time the Defendant added a newborn to her case (M-7).
- 7) A Court Order List indicates that [REDACTED] was incarcerated on September 1, 2017 (M-6).

## **APPLICABLE POLICY**

Code of Federal Regulations Section 273.16.c.1 (M-16) 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).

West Virginia Income Maintenance Manual §11.2.3.B (M-15) 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.

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.

## **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.

The Defendant's husband was incarcerated on September 1, 2017. The Defendant failed to report that her husband was no longer in the home on a redetermination form signed on September 12, 2017 and when she called the Movant's office on September 27, 2017 to add a newborn to her case. Therefore, she committed an IPV by withholding information and misrepresenting the number of individuals in her household, resulting in an overpayment of SNAP benefits.

The Movant contends that the Defendant also failed to report - on four subsequent occasions between April 2018 and April 2019 - that her husband was no longer in the home. However, Case Comments provided by the Movant reveal that the Movant received a New Hire alert for the Defendant's husband on December 17, 2018 for employment at [REDACTED] (hire date-November 25, 2018). Case Comments also state that the Movant received a Loss of Employment statement from the Defendant's husband on January 17, 2019, at which time the Defendant's husband indicated that he "quit for a better job but will not start that job for a couple weeks." Based

on this information, exhibits concerning the Defendant's contacts with the Movant after September 2017 were not considered in this hearing decision.

### **CONCLUSIONS OF LAW**

- 1) An Intentional Program Violation can be established for SNAP purposes when an individual conceals, withholds or misrepresents case circumstances.
- 2) The Defendant's husband was incarcerated on September 1, 2017.
- 3) The Defendant failed to report that her husband was incarcerated during a Medicaid redetermination and telephone contact with the Movant in September 2017.
- 4) The Defendant committed a first offense IPV by withholding information from the Movant and misrepresenting the number of individuals in her household during her September 2017 contacts with the Movant.
- 6) The penalty for a first offense Intentional Program Violation is exclusion from participation in SNAP for 12 months.

### **DECISION**

The State Hearing Officer finds that the Defendant committed an Intentional Program Violation. As this is the Defendant's first offense, she will be excluded from participation in SNAP for 12 months, effective January 1, 2020.

**ENTERED this 22<sup>nd</sup> Day of November 2019.**

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**Pamela L. Hinzman  
State Hearing Officer**