



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

**Bill J. Crouch  
Cabinet Secretary**

**Board of Review  
State Capitol Complex  
Building 6, Room 817-B  
Charleston, West Virginia 25305  
Telephone: (304) 558-0955 Fax: (304) 558-1992**

**Jolynn Marra  
Interim Inspector General**

January 24, 2020

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 19-BOR-2634

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,

Todd Thornton  
State Hearing Officer  
Member, State Board of Review

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

cc: Elizabeth Mullins, Department Representative

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

██████████,

**Defendant,**

v.

**Action Number: 19-BOR-2634**

**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 October 28, 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 §273.16. The hearing was convened on December 3, 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 and should thus be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Movant appeared by Elizabeth Mullins. Appearing as witnesses for the Movant were Andrew Pettit and Michael Barber. The Defendant was notified of the hearing but failed to appear, resulting in the hearing being held in the Defendant's absence. The witnesses were sworn and the following documents were admitted into evidence.

**EXHIBITS**

**Department's Exhibits:**

- |     |  |
|-----|--|
| D-1 | Code of Federal Regulations<br>7 CFR §273.16                                       |
| D-2 | SNAP Claim Determination packet<br>Calculation sheets<br>Data system screen prints |

- D-3 SNAP application and review documents from the Defendant  
Application signed: August 16, 2018  
Review (excerpt) signed: January 12, 2019
- D-4 SNAP application documents for Paul Barber, dated March 14, 2019
- D-5 Written statement (redacted) from [REDACTED], dated June 24, 2019
- D-6 Written statement (redacted) from [REDACTED], dated June 25, 2019
- D-7 Written statement (redacted) from [REDACTED], dated August 22, 2019
- D-8 [REDACTED] County Community Corrections Database and Tracking System  
Screen print dated October 8, 2019
- D-9 Written statement from [REDACTED], dated September 30, 2019
- D-10 West Virginia Income Maintenance Manual (WVIMM)  
Chapter 1, §1.2.4
- D-11 WVIMM  
Chapter 11, §11.2
- D-12 WVIMM  
Chapter 11, §11.6
- D-13 ADH request documents
- D-14 Scheduling Order, dated October 30, 2019  
ADH request form/Outline of evidence, dated October 28, 2019  
ADH request form/Outline of evidence, dated November 22, 2019

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 Defendant received an overissuance of SNAP benefits between August 2018 and January 2019. (Exhibit D-2)
- 2) The Movant calculated a SNAP overissuance claim based on two factors they alleged were unreported by the Defendant: her unearned income (in the form of rental income), and additional household income from [REDACTED].
- 3) The Movant contended [REDACTED] resided in the home with the Defendant.

- 4) The unearned income of the Defendant's SNAP case was in error because the Defendant reported zero income on her August 16, 2018 application for SNAP and reported no change to the zero income amounts shown on the documents from the subsequent SNAP review on January 12, 2019. (Exhibit D-3)
- 5) The Defendant had monthly unearned income of \$450 in the form of rent from [REDACTED]. (Exhibit D-5)
- 6) Ms. [REDACTED] reported this income to an investigator from the Movant's Front-End Fraud Unit, in a written statement dated June 24, 2019 (Exhibit D-5), which reads, in part, "I, [REDACTED], live with my mother...We have lived here for 1 year. My landlords are [REDACTED] and [REDACTED] [sic] and I pay \$450/month rent to [REDACTED] each month. I think they live in [REDACTED] with [REDACTED] mother. I write the rent check to [REDACTED] each month."
- 7) The Movant contended the false statement of the Defendant regarding her household composition constitutes an Intentional Program Violation (IPV) and requested this hearing for the purpose of making that determination.
- 8) The Defendant has no prior IPV offenses.

### **APPLICABLE POLICY**

The Code of Federal Regulations, 7 CFR §273.16(c) defines an IPV as having intentionally "made a false or misleading statement," or "concealed or withheld facts" for purposes of SNAP eligibility.

The West Virginia Income Maintenance Manual (WVIMM), Chapter 4, addresses income. At §4.3, this policy provides charts of income sources for SNAP and other programs. At §4.3.1, item 63, rental income is shown as a countable income source for SNAP.

The WVIMM, at §1.2.4, addresses the client's responsibility in the application and redetermination process for SNAP and other programs, and reads, "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."

The WVIMM, Chapter 3.2.1.B.5, indicates a first offense IPV results in a one-year disqualification from SNAP.

### **DISCUSSION**

The Defendant did not appear for the hearing, and as such could not dispute facts presented by the Movant.

To show the Defendant committed an IPV, the Movant must provide clear and convincing evidence that the Defendant intentionally made a false statement pertinent to her SNAP eligibility.

The testimony and evidence presented by the Movant show a false statement by the Defendant that meets the codified IPV definition. The Movant initiated an investigation of the Defendant's case when [REDACTED] reported his mailing address as the Defendant's physical address on a March 14, 2019 application (Exhibit D-4). As a result of this investigation, the Movant obtained written statements and other documents to contend [REDACTED] was in the Defendant's home with earned income, and that the Defendant has unearned, rental income – both of which were required to be included in the Defendant's SNAP allotment determination. The Movant clearly established the Defendant made false statements by reporting zero income on SNAP application and review documents. The Movant did not provide clear and convincing evidence to support the presence of [REDACTED] in the Defendant's home.

The written statements obtained by the Movant were given little weight because only one of the individuals was available for testimony. [REDACTED] appeared as a witness for the Movant. Mr. [REDACTED] is an employee of the [REDACTED] and is the brother of [REDACTED]. Mr. [REDACTED] was asked if he wanted to modify anything in his written statement, and he declined to do so. Mr. [REDACTED] written statement (Exhibit D-7) did not clearly establish when or if [REDACTED] resided with the Defendant. This statement does not appear to be based on Mr. [REDACTED] firsthand knowledge because although he reports his apparent understanding that his brother resides with the Defendant in an apartment in [REDACTED] West Virginia, he also wrote, "I'm not sure of the address." The statement includes numerous modifications and over a page of the statement was redacted. This statement does not convincingly place [REDACTED] in the home of the Defendant for any period.

Investigators for the Movant obtained a written statement from the Defendant's tenant, [REDACTED] (Exhibit D-5), in which she reported she paid rent to the Defendant. Ms. [REDACTED] was not available for testimony. The household composition claims she made regarding the Defendant are given little weight for this reason, but also because Ms. [REDACTED] does not seem convinced herself when she wrote, "I think they live in [REDACTED] with [REDACTED] mother." It is reasonable that Ms. [REDACTED] has firsthand knowledge of her rent amount and the landlord she pays, and for that reason the statement supports the Movant's contention that the Defendant had unreported rental income.

Additional written statements were obtained from [REDACTED] (Exhibit D-6), the Defendant's neighbor, and from [REDACTED] (Exhibit D-9), [REDACTED] father. Ms. [REDACTED] claimed [REDACTED] resided with the Defendant, and [REDACTED] claimed [REDACTED] resided with him. Neither were available for testimony to clarify their statements, and their relative credibility cannot be ascertained. The statements effectively nullify each other. A final document – a screen print from the [REDACTED] County Community Corrections Database and Tracking System (Exhibit D-8) – supports the notion [REDACTED] was living with his father, not the Defendant. The document listed [REDACTED] as a "Home Confinement Client," noted he was living with "[REDACTED] – Dad" and listed the address for [REDACTED] as [REDACTED] address.

The Movant did not convincingly establish the household composition facts it asserted in the hearing. However, the Defendant was also required to provide accurate information regarding her income and failed to do so by withholding information about rental income on signed SNAP application and review documents. This fact alone is enough to establish an intentional violation of SNAP regulations. For this reason, the Movant has proven by clear and convincing evidence that the Defendant committed an IPV. As the Defendant has no prior IPV disqualifications, the Movant is correct to disqualify the Defendant from SNAP participation for one year.

### **CONCLUSION OF LAW**

Because the action of the Defendant constitutes an IPV, the Movant must disqualify the Defendant from receipt of SNAP benefits, and because the IPV is a first offense, the disqualification period is one year.

### **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 one year, beginning March 1, 2020.

**ENTERED this \_\_\_\_ Day of January 2020.**

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**Todd Thornton  
State Hearing Officer**