



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

Bill J. Crouch
Cabinet Secretary

Board of Review
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Jolynn Marra
Interim Inspector General

January 26, 2021



RE: [REDACTED] v. WV DHHR
ACTION NO.: 20-BOR-2545

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,

Tara B. Thompson, MLS
State Hearing Officer
Member, State Board of Review

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

cc: Debra Carey, Investigations and Fraud Management

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

██████████,

Defendant,

v.

Action Number: 20-BOR-2545

**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 (ADH) for ██████████ requested by the Movant on November 18, 2020. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' (DHHR) Common Chapters Manual and Federal Regulations at 7 CFR § 273.16. The hearing was convened on January 6, 2021.

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

At the hearing, the Movant appeared by Debra Carey, Investigations and Fraud Management. The Defendant failed to appear. The Movant's representative was sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 ADH Hearing Summary
- M-2 Benefit Recovery Referrals, dated July 17 and October 21, 2020
- M-3 SNAP 6 or 12 month contact form (hereafter, Interim Contact Form), scanned on November 20, 2019
- M-4 eRAPIDS Case Comments, dated April 29, 2019 through July 14, 2020
- M-5 State of ██████████ email correspondence, received July 24, 2020; Court of Common Pleas, Juvenile Division, ██████████ Child Custody Order, filed October 11, 2017
- M-6 eRAPIDS Data Exchange, Social Security Administration (SSA) Prisoner Match Information, match dated January 6, 2020
- M-7 eRAPIDS Case Members History, printed July 28, 2020
- M-8 eRAPIDS SNAP Issuance History-Disbursement, printed July 28, 2020
- M-9 DHHR Food Stamp Claim Determination; Benefit Recovery Referral, dated October 21, 2020; Food Stamp Claim Calculation Sheet; Food Stamp Allotment Determination

- M-10 DHHR Food Stamp Claim Determination, Benefit Recovery Referral, dated October 21, 2020; Food Stamp Claim Calculation Sheet, Food Stamp Allotment Determination
- M-11 Advanced notice of ADH Waiver
- M-12 Waiver of Administrative Disqualification Hearing
- M-13 West Virginia Income Maintenance Manual (WVIMM) §§ 1.2.3.F.2 – 1.2.4
- M-14 WVIMM §§ 3.2.1 – 3.2.1.A.2
- M-15 WVIMM §§ 11.2 – 11.2.5
- M-16 Electronic Code of Federal Regulations (e-CFR) § 273.16

Defendant's Exhibits:

None

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 was a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits for a one person Assistance Group (AG) from May through July 2019.
- 2) The Defendant's minor nephew, [REDACTED], was added to the Defendant's household on July 11, 2019, but was not included in the SNAP AG because he received SNAP benefits in another case (Exhibit M-2).
- 3) On July 23, 2019, the Defendant added [REDACTED] (hereafter, Mr. [REDACTED]) to her SNAP AG (Exhibit M-2).
- 4) On November 20, 2019, the Defendant submitted a SNAP Interim Contact Form and included [REDACTED] and Mr. [REDACTED] as members of the AG (Exhibit M-3).
- 5) The Defendant affixed her signature on the Interim Contact Form and acknowledged that all information provided was true and correct (Exhibit M-3).
- 6) On May 11, July 9, and September 18, 2020, the Movant verified that Mr. [REDACTED] had been incarcerated since November 20, 2019 (Exhibits M-4 and M-6).
- 7) The Defendant did not report Mr. [REDACTED] absence from the home due to incarceration (Exhibit M-4).
- 8) The Defendant's minor nephew, [REDACTED], has been in the legal residential custody of [REDACTED] since October 11, 2017 (Exhibit M-5).
- 9) Child [REDACTED] received continuous SNAP benefits in [REDACTED] from August 2019 through July 2020 (Exhibit M-5).

- 10) The Defendant has no previous history of Intentional Program Violation (IPV) determination.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) § 1.2.4 Client Responsibility provides in part:

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.

WVIMM § 3.2.1.A Who Must Be Included provides in part:

The SNAP AG must include all eligible individuals who both live together and purchase food and prepare meals together. An individual cannot be a member of more than one SNAP AG in any month When an AG member is absent or is expected to be absent from the home for a full calendar month, he is no longer eligible to be included in the AG and must be removed after advanced notice.

WVIMM § 3.2.1.B.1 Who Cannot Be Included —Clients in another State provides in part:

Individuals who have already received or will receive SNAP in another state are ineligible to be included in a SNAP AG in West Virginia for that same month.

WVIMM §§ 10.4.2-10.4.2.A Client Reporting Requirements provides in part:

All SNAP AGs must report changes related to eligibility and benefit amount at application and redetermination.

Code of Federal Regulations 7 CFR § 273.16(a)(1) provides in part:

Administrative disqualification procedures or referral for prosecution action should be initiated by the State agency in cases in which the State agency has sufficient documentary evidence to substantiate that an individual has intentionally made one or more acts of intentional Program violation as defined in paragraph (c) of this section.

Code of Federal Regulations 7 CFR § 273.16(b)(1)(i) provides in part:

Individuals found to have committed an intentional Program violation through an administrative disqualification hearing ... shall be ineligible to participate in the

Supplemental Nutrition Assistance Program for a period of twelve months for the first intentional Program violation.

Code of Federal Regulations 7 CFR § 273.16(b)(13) provides in part:

The disqualification period shall begin no later than the second month which follows the date the individual receives written notice of the disqualification. The disqualification period must continue uninterrupted until completed regardless of the eligibility of the disqualified individual's household.

Code of Federal Regulations 7 CFR § 243.16(c)(1) provides in part:

An intentional program violation is defined as an individual having intentionally made a false or misleading statement, or misrepresented, concealed, or withheld facts.

DISCUSSION

The Movant requested an Administrative Disqualification Hearing (ADH) to establish that the Defendant committed an Intentional Program Violation (IPV) by making false or misleading statements, misrepresenting, concealing, or withholding facts about the household's composition for the purpose of receiving SNAP benefits. During the hearing, the Movant requested that a twelve-month SNAP disqualification penalty and SNAP repayment claim be established. The Defendant was notified of the ADH scheduling and failed to appear at the hearing to contest the Movant's evidence. Pursuant to federal regulations, the hearing was held in the Defendant's absence. The matters of IPV establishment and repayment claim may not be combined without the Defendant's agreement. Therefore, the decision of this Hearing Officer pertains only to the Movant's request to establish an IPV and disqualification penalty.

The Movant had to prove by clear and convincing evidence that the Defendant misrepresented or intentionally withheld information about her household's composition for the purpose of receiving SNAP benefits.

The evidence verified that the Defendant's nephew, [REDACTED], was not a member of the Defendant's household when she intentionally acted to report him as a member of her household in May and November 2019. Further, the evidence verified that the Defendant intentionally withheld information regarding Mr. [REDACTED] absence from her household due to incarceration.

The policy requires that the Defendant provide accurate information regarding her household composition so that the Movant can make an accurate determination regarding the AG's SNAP benefit eligibility and allotment amount. Pursuant to the evidence, the Defendant signed acknowledgement that information provided on the Interim Contact Form was true and correct; however, the evidence established that the Defendant made false statements regarding the composition of her household for the purpose of receiving SNAP benefits. Further, the evidence verified that the Defendant failed to report Mr. [REDACTED] absence from the household for the purpose of receiving SNAP benefits based on Mr. [REDACTED] presence in her AG.

CONCLUSIONS OF LAW

- 1) The Defendant was required to report accurate information about her household composition so that the Respondent could make an accurate determination regarding the Defendant's SNAP eligibility and benefit allotment amount.
- 2) Clear and convincing evidence proved that the Defendant committed an Intentional Program Violation (IPV) by intentionally making false statements and withholding facts regarding the AG's member composition for the purpose of receiving SNAP benefits.
- 3) Because the Defendant had no previous history of IPV disqualification penalty, a first-offense 12-month disqualification penalty must be imposed.

DECISION

It is the decision of the State Hearing Officer that the Defendant committed an Intentional Program Violation and a first-offense 12-month disqualification penalty period must be imposed, effective March 1, 2020.

ENTERED this 26th day of January 2020.

**Tara B. Thompson, MLS
State Hearing Officer**