



**STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH  
Office of the Inspector General  
Board of Review**

**Sherri A. Young, DO, MBA, FAAFP  
Cabinet Secretary**

**Christopher G. Nelson  
Interim Inspector General**

January 4, 2024

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 23-BOR-3451

Dear [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 Human Services. 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,

Eric L. Phillips  
State Hearing Officer  
Member, State Board of Review

Encl: Recourse to Hearing Decision  
Form IG-BR-29

cc: Lisa Snodgrass, IFM

**WEST VIRGINIA OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW**

[REDACTED],

**Defendant,**

**v.**

**Action Number: 23-BOR-3451**

**WEST VIRGINIA DEPARTMENT OF  
HEALTH INVESTIGATIONS  
AND FRAUD MANAGEMENT,**

**Movant.**

**DECISION OF STATE HEARING OFFICER**

**INTRODUCTION**

This is the decision of the State Hearing Officer resulting from an Administrative Disqualification Hearing for [REDACTED]. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Office of Inspector General Common Chapters Manual and Federal Regulations at 7 CFR §273.16. This hearing was convened on January 3, 2024.

The matter before the Hearing Officer arises from a request by the Movant for a determination as to whether the Defendant committed an Intentional Program Violation (IPV) and should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for a period of twelve (12) months.

At the hearing, the Movant appeared by Lisa Snodgrass, Repayment Investigator. The Appellant failed to appear. All witnesses were sworn and the following documents were admitted into evidence.

**Movant's Exhibits:**

- M-1 Advance Notice of Administrative Disqualification Hearing and Waiver of Administrative Disqualification Hearing.
- M-2 Individual SNAP IPV Disqualification
- M-3a Supplemental Nutrition Assistance Program Application dated April 26, 2022
- M-3b CSLR Recertification dated February 22, 2023
- M-3c PRC2 dated September 23, 2022
- M-4 Printout of Case Comments
- M-5 [REDACTED] Circuit Court Order dated March 23, 2022

- M-6 Food Stamp Claim Determination
- M-7 West Virginia Income Maintenance Manual Chapters 1.24, 10.4.2C, 3.2, 1.4,4.4.3, 11.2, 11.6, 19.4
- M-8 Code of Federal Regulations § 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 Movant alleged that the Defendant committed an Intentional Program Violation by falsely reporting his household composition and requested that a twelve (12) month penalty be imposed against him. (Exhibit M-1)
- 2) The Defendant was notified of the hearing by scheduling order mailed on November 27, 2023 to [REDACTED]
- 3) The Defendant failed to appear for the hearing. In accordance with 7 CFR §§273.16 (e)(3) and 273.16(e)(4)) and West Virginia Office of Inspector General Common Chapters Manual, §740.20, the hearing was held without the Defendant in attendance.
- 4) On April 26, 2022, the Defendant applied for Supplemental Nutrition Assistance Program (SNAP) benefits documenting that his household consisted of himself and his two children. (Exhibit M-3a)
- 5) On February 22, 2023, the Defendant completed a recertification for SNAP benefits documenting that his household consisted of himself and his two children. (Exhibit M-3b)
- 6) On September 23, 2022, the Defendant completed a recertification for SNAP benefits documenting that his household consisted of himself and his two children. (Exhibit M-3c)
- 7) The Movant verified through a [REDACTED] Circuit Court order that both children were removed from the care and custody of the Defendant in July 2021 and were adopted in March 2022. (Exhibit M-5)

## **APPLICABLE POLICY**

### **Code of Federal Regulations, 7 CFR §273.16 documents:**

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).

### **Code of Federal Regulations, 7 CFR §273.16(b) documents:**

(1) Individuals found to have committed an Intentional Program Violation either through an administrative disqualification hearing or by a Federal, State or local court, or who have signed either a waiver of right to an administrative disqualification hearing or a disqualification consent agreement in cases referred for prosecution, shall be ineligible to participate in the Program:

(i) For a period of twelve months for the first Intentional Program Violation, except as provided under paragraphs (b)(2), (b)(3), (b)(4), and (b)(5) of this section;

(ii) For a period of twenty-four months upon the second occasion of any Intentional Program Violation, except as provided in paragraphs (b)(2), (b)(3), (b)(4), and (b)(5) of this section; and

(iii) Permanently for the third occasion of any Intentional Program Violation.

(13) The individual must be notified in writing once it is determined that he/she is to be disqualified. 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.

### **West Virginia Income Maintenance Manual §1.2.4 documents:**

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 documents:**

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 documents:**

Persons who have been found guilty of an IPV are disqualified as follows:

- First offense – one-year disqualification
- Second offense - two-year disqualification
- Third offense - permanent disqualification

**West Virginia Income Maintenance Manual § 3.2.1.A documents:**

Natural or adopted children and stepchildren who are under 22 years of age and who live with a parent must be in the same AG as that parent. There is no required maximum/minimum amount of time the child must spend with a parent for the child to be included in the SNAP AG. If no one is receiving any SNAP benefits for the child, it is assumed that the living arrangements are not questionable, and the child is added to the SNAP AG that wishes to add him. If the child is already listed in another SNAP AG or the other parent wishes to add the child to his SNAP AG, the parents must agree as to where the child “lives” and, ultimately, to which SNAP AG he is added. Where the child receives the majority of his meals, or the percentage of custody, must not be the determining factor for which parent receives SNAP for the child.

## **DISCUSSION**

The Movant requested an Administrative Disqualification Hearing from the Board of Review citing that the Defendant committed an Intentional Program Violation (IPV) by willfully misrepresenting his household composition. The Movant contends that the Defendant falsely reported his minor children as members of his household while they resided in their adoptive parents’ home.

The Movant requests that the Defendant be disqualified from receiving SNAP benefits for a period of twelve (12) months.

For purposes of the Administrative Disqualification Hearing, the Movant must prove by clear and convincing evidence that the Defendant intentionally made false or misleading statements, misrepresented, concealed, or withheld facts to obtain SNAP assistance to which he was not entitled.

The Defendant made false statements at his April 2022 SNAP application and subsequent benefit recertifications in September 2022 and February 2023, by reporting that both of his children resided in his home, when in fact, they were removed from his care and custody in July 2021. Documentation from the [REDACTED] Circuit Court (Exhibit M-5) is clear that the children

were removed from the Defendant's custody in July 2021 and resided with their adoptive parents.

The Defendant's actions, of making false statements regarding the residence of the children, meet the definition of an Intentional Program Violation.

### **CONCLUSIONS OF LAW**

- 1) The Defendant made false statements regarding his household composition by reporting his children in his home while they resided with their adoptive parents.
- 2) Because the Defendant falsely reported his household composition, he received additional SNAP benefits for which he was not entitled to receive.
- 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 a period of twelve (12) months.
- 5) The Defendant's actions meet the definition of an Intentional Program Violation.

### **DECISION**

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation. The Defendant will be excluded from participation in the Supplemental Nutrition Assistance Program for twelve (12) months effective February 1, 2024.

**ENTERED this \_\_\_\_ day of January 2024.**

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Eric L. Phillips  
**State Hearing Officer**