



April 4, 2024



RE: [REDACTED] v. DEPARTMENT OF HEALTH INVESTIGATIONS AND FRAUD
MANAGEMENT
ACTION NO.: 24-BOR-1464

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

cc: Elizabeth Mullins, IFM

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

██████████,

Defendant,

v.

Action Number: 24-BOR-1464

**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 ██████████ requested by the Movant on February 20, 2024. 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. The hearing was convened on April 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 and should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Movant appeared by Elizabeth Mullins, Repayment Investigator, Investigations and Fraud Management. Appearing as a witness for the Movant was ██████████. The Defendant appeared *pro se*. Appearing as a witness for the Defendant was ██████████, the Defendant's mother-in-law. All witnesses were sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 Code of Federal Regulations Section 273.16
- M-2 SNAP review form received by Respondent on or about May 5, 2023
- M-3 Food Stamp Claim Determination form, Benefit Recovery Referral, SNAP Claim Calculation Sheets, Case Summaries, Food Stamp Allotment Determinations, Non-Financial Eligibility Determinations, and disqualification query information
- M-4 Information from ██████████ Schools dated December 19, 2023
- M-5 Information from ██████████ dated January 4, 2024
- M-6 Power of Attorney document dated March 16, 2023
- M-7 Written statement of ██████████ dated February 2, 2024
- M-8 West Virginia Income Maintenance Manual Chapter 1.2.4

- M-9 West Virginia Income Maintenance Manual Chapter 3.2.1.A
- M-10 West Virginia Income Maintenance Manual Chapter 11.2
- M-11 West Virginia Income Maintenance Manual Chapter 11.6
- M-12 Investigation notification sent to Defendant on January 17, 2024, with Waiver of Administrative Disqualification hearing and Advance Notice of Administrative Disqualification Hearing

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) A request for an Administrative Disqualification Hearing was received by the Board of Review from the Department's Investigations and Fraud Management Unit, hereinafter referred to as Movant, on February 20, 2024.
- 2) The Movant contends that the Defendant 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) The Investigations and Fraud Management (IFM) Unit received a referral in October 2023, alleging that two children, [REDACTED], had not been in the Defendant's household since February 2023 (Exhibit M-3).
- 4) The Defendant submitted a SNAP review form to the Respondent in May 2023, indicating that [REDACTED] were members of his household, and both attended school at [REDACTED] School in [REDACTED] (Exhibit M-2).
- 5) Records from [REDACTED] Schools verify that [REDACTED] transferred out of the [REDACTED] school system in March 2023 because they had left the state (Exhibit M-4).
- 6) Records from [REDACTED], verify that [REDACTED] were enrolled in school in [REDACTED] on March 16, 2023 (Exhibit M-5).
- 7) A Power of Attorney agreement dated March 16, 2023, states that the Defendant appointed the children's grandmother, a resident of [REDACTED] as custodian of the children on March 16, 2023 (Exhibit M-6).
- 8) [REDACTED] have resided with their grandparents, [REDACTED], continuously since February 2023 (Exhibit M-7).

- 9) As a result of inaccurate reporting of household composition, the Movant contends that the Defendant received \$2,292 in SNAP benefits to which he was not entitled for the period of June 2023 through November 2023 (Exhibit M-3).

APPLICABLE POLICY

Code of Federal Regulations Section 273.16.c.1 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 Chapter 3.2.1.A states that the SNAP Assistance Group must include all eligible individuals who both live together and purchase food and prepare meals together, with the exception of residents of shelters for battered persons. When an Assistance Group 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 Assistance Group and must be removed after advance notice.

West Virginia Income Maintenance Manual Chapter 11.2.3.B 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 Chapter 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 Chapter 1.2.4 states that it is the client's responsibility to provide complete and accurate information about his or her circumstances so that a worker can make a correct eligibility determination.

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 did not deny that the children left his household, but testified that their absence was only expected to be temporary. He stated that the children were supposed to return to him; however, court dates regarding custody issues kept being delayed. He testified that he had been depressed because his wife left and he was homeless. The Defendant contended that all of the SNAP benefits he received helped feed the two younger children in the household.

The children's guardian, [REDACTED] testified that everything in her written statement concerning the children's living arrangements since 2023 is correct.

The Defendant reported that [REDACTED] were residing in his household during his May 2023 SNAP review even though the children had moved to [REDACTED] in February 2023. Therefore, the Movant's proposal to apply an Intentional Program Violation penalty is correct.

CONCLUSIONS OF LAW

- 1) An Intentional Program Violation can be established when an individual misrepresents his/her case circumstances to receive SNAP benefits to which he/she is not entitled.
- 2) The Defendant reported that [REDACTED] who moved to [REDACTED] in February 2023, were still residing in his home during his May 2023 SNAP review.
- 3) The Movant provided clear and convincing evidence to support the imposition of an Intentional Program Violation based on the Defendant's misrepresentation of household composition.
- 4) The Movant's proposal to apply an Intentional Program Violation to the Defendant's SNAP benefits is affirmed.

DECISION

The State Hearing Officer finds that the Defendant committed an Intentional Program Violation. The Movant's proposal to impose a 12-month IPV penalty on SNAP benefits is **UPHELD**. The penalty is effective May 2024.

ENTERED this 4th Day of April 2024.

**Pamela L. Hinzman
State Hearing Officer**