



May 8, 2024

[REDACTED]

RE: [REDACTED] v. WV OIG/ IFM  
ACTION NO.: 24-BOR-1695

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 Health. 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,

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

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

cc: Donald Greathouse, Investigations and Fraud Management

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

[REDACTED]

**Defendant,**

v.

**Action Number: 24-BOR-1695**

**WEST VIRGINIA OFFICE OF THE  
INSPECTOR GENERAL  
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] requested by the Movant on March 13, 2024. This hearing was held in accordance with the provisions found in Chapter 700 of the Office of Inspector General Common Chapters Manual and Federal Regulations at 7 CFR § 273.16. The hearing was convened on April 16, 2024.

The matter before the Hearing Officer arises from a request by Investigations and Fraud Management for the Board of Review to determine whether the Defendant has committed an intentional program violation (IPV) and should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for twelve months.

At the hearing, the Department appeared by Donald Greathouse, Investigations and Fraud Management. The Defendant did not appear and the hearing was conducted in her absence. The Movant's representative was placed under oath and the following documents were admitted into evidence.

**Movant's Exhibits:**

- M-1 Benefit Recovery Referral (BVERF), dated September 7, 2023  
BVERF, dated February 27, 2024
- M-2 SNAP Claim Determination
- M-3 Department of Health Notice, dated February 27, 2024
- M-4 Advance Notice of Administrative Disqualification Hearing (ADH) Waiver,  
Dated March 5, 2024
- M-5 Case Comments, dated September 5 through September 6, 2023

- M-6 Case Comments, dated September 7 through 18, 2023
- M-7 SNAP application, submitted October 14, 2022
- M-8 Case Comments, dated October 18, 2022
- M-9 Employment and Wage Verifications for [REDACTED]
- M-10 [REDACTED] wage verifications
- M-11 SNAP Interim Contact Form PRC-2, scanned February 28, 2023  
Case Comments, dated November 21, 2022 through March 1, 2023
- M-12 SNAP Review Form (CSLR), submitted August 30, 2023  
Case Comments, dated September 6 and 7, 2023
- M-13 Electronic Code of Federal Regulations, October 29, 2020
- M-14 West Virginia Income Maintenance Manual policy excerpts: Chapters 1 and 11

**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) On September 7, 2023, the Movant received a referral alleging the Defendant failed to report employment at [REDACTED] from October 14, 2022, through October 31, 2022 (Exhibit M-1).
- 2) On February 27, 2024, the Movant received a referral alleging the Defendant failed to report employment at [REDACTED] from March 1, 2023, through September 30, 2023 (Exhibit M-1).
- 3) On February 27, 2024, the Movant issued a notice to the Defendant that advised her to attend an appointment on March 6, 2024 (Exhibit M-3).
- 4) On March 5, 2024, the Movant issued an Advanced Notice of ADH Waiver that indicated the agency believed the Defendant intentionally violated the SNAP by: "The evidence to prove this allegation consists of eligibility case records and employment/wage verification" (Exhibit M-4).
- 5) On March 11, 2024, the Defendant signed the Waiver of ADH and marked, "I have read this notice and choose my right to have an administrative hearing" (Exhibit M-4).
- 6) The Waiver of ADH indicated the Defendant received SNAP benefits she was not entitled to receive from October 2022 through October 2023, because she committed an IPV by failing to report employment/wages from [REDACTED] when required (Exhibit M-4).

**Application**

- 7) On October 14, 2022, the Defendant applied for SNAP benefits and reported her [REDACTED] employment as \$11 per hour for ten hours weekly. The Defendant reported that she was paid weekly, beginning in 2020 (Exhibit M-7).
- 8) The Defendant did not report any other earned or unearned income on her October 14, 2022 application (Exhibit M-7).
- 9) The Defendant reported she expected to receive \$400 in earned income in October 2022 (Exhibit M-7).
- 10) The Defendant listed herself as the only member of her household (Exhibit M-7).
- 11) The Defendant applied a handwritten signature on the October 14, 2022 application. The Defendant's signature certified she understood it was her responsibility to provide complete and truthful information (Exhibit M-7).
- 12) On October 18, 2022, the Movant completed the Defendant's eligibility phone interview (Exhibit M-8).
- 13) On October 18, 2022, the Defendant reported she was moving in with her daughter, [REDACTED] who purchases and prepares meals separately and pays all expenses in the home (Exhibit M-8).
- 14) On October 18, 2022, the Movant recorded the Defendant's report of [REDACTED] as her only employment (Exhibit M-8).
- 15) The Defendant received \$12.30 per hour for an average of 20 weekly hours (Exhibit M-9).
- 16) The Defendant received bi-weekly pay (Exhibit M-9).
- 17) The Movant verified the Defendant's [REDACTED] wages from May 4, 2022, through February 15, 2024 (Exhibit M-9).
- 18) In May 2022, the Defendant received \$472.77 gross earned wages from [REDACTED], for 41.1 hours of work (Exhibit M-9).
- 19) The Defendant received gross earned wages of \$568.45 on June 3, 2022 for 49.4 hours of work and \$221.72 for 19.3 hours of work on June 17, 2022, in gross earned wages from [REDACTED] (Exhibit M-9).
- 20) The Defendant received gross earned wages of \$515.55 on July 1, 2022 for 44.9 hours of work, \$600.21 on July 15 for 44.6 hours of work, and \$586.27 on July 29, 2022 for 51 hours of work from [REDACTED] (Exhibit M-9).

- 21) The Defendant received gross earned wages of \$384.44 on August 12, 2022 for 26.5 hours of work, and \$491.97 on August 26, 2022, for 42.8 hours of work from [REDACTED] (Exhibit M-9).
- 22) The Defendant received gross earned wages of \$340.55 on September 9, 2022, for 23.8 hours of work and \$119.60 on September 23, 2022, for 10.4 hours of work, from [REDACTED] (Exhibit M-9).
- 23) The Defendant received gross earned wages of \$402.73 on October 7, 2022, for 35 hours of work from [REDACTED] (Exhibit M-9).
- 24) From October 21, 2022, through February 9, 2024, the Defendant received gross earned income payments ranging from \$267.90 for 18.6 hours of work, to \$818.99 for 68.7 hours of work (Exhibit M-9).
- 25) The Movant verified the Defendant's [REDACTED] wages from February 17, 2022, through December 28, 2023 (Exhibit M-10).
- 26) The Defendant received \$110 gross earned income on October 6, 2022, from [REDACTED] (Exhibit M-10).

**February 2023 Interim Contact Form**

- 27) On February 28, 2023, the Defendant submitted an eligibility Interim Contact Form PRC-2 (Exhibit M-11).
- 28) The Defendant listed herself as the only member of her household (Exhibit M-11).
- 29) The February 28, 2023 Interim Contact Form reflected the Defendant's gross earned monthly income was \$619.47 (Exhibit M-11).
- 30) The Defendant's verified [REDACTED] gross earned income reflected \$528 for January 2023 (Exhibit M-10).
- 31) The Defendant's verified [REDACTED] gross earned income reflected \$198 paid before February 28, 2023 (Exhibit M-10).
- 32) The Defendant's verified [REDACTED] gross earned income reflected \$1,022.29 for January 2023 (Exhibit M-9).
- 33) The Defendant's verified February 2023 [REDACTED] gross earned income reflected \$1,219.37 paid before February 28, 2023 (Exhibit M-9).
- 34) The Defendant marked "No" to *Household Earned Income* inquiries about whether the household's gross earned income increased by more than \$125 and whether anyone had changed jobs (Exhibit M-11).

- 35) The Defendant did not report any other earned or unearned income (Exhibit M-11).
- 36) The Defendant applied a handwritten signature acknowledging statements on her February 28, 2023 Interim Contact Form were true and correct to the best of her knowledge (Exhibit M-11).
- 37) On March 1, 2023, the Department's worker processed the Movant's February 28, 2023 Interim Contact Form and recorded "no changes listed" and "snap stays the same" (Exhibit M-11).

### **August 30, 2023 Review**

- 38) On August 30, 2023, the Defendant submitted a SNAP eligibility review form (CSLR) and listed herself as the only member of her household (Exhibit M-12).
- 39) The SNAP eligibility review form reflected the Defendant was employed at [REDACTED] beginning August 1, 2022, and was paid \$144.06 weekly for 13 hours each week (Exhibit M-12).
- 40) The Defendant did not list any other earned or unearned income (Exhibit M-12).
- 41) The Defendant applied a handwritten signature certifying her statements on the form were true and correct and acknowledging her responsibility to report when the total household income exceeds the SNAP gross income limit by the 10<sup>th</sup> of the month after the increase occurs and that she would be notified of that amount (Exhibit M-12).
- 42) On August 3, 2023, the Defendant received \$158 verified gross earned income from [REDACTED] (Exhibit M-10).
- 43) On August 17, 2023, the Defendant received \$220 verified gross earned income from [REDACTED] (Exhibit M-10).
- 44) On August 31, 2023, the Defendant received \$220 verified gross earned income from [REDACTED] (Exhibit M-10).
- 45) For August 2023, the Defendant received \$1,070.24 verified gross earned income from [REDACTED] paid by August 25, 2023 (Exhibit M-9).
- 46) On September 5, 2023, the Defendant reported ongoing employment with [REDACTED] during her SNAP eligibility phone interview (Exhibit M-5).
- 47) On September 5, 2023, the Movant became aware of the Defendant's employment at [REDACTED] and left a message for the Defendant to contact the Movant (Exhibit M-5).
- 48) On September 7, 2023, the Defendant returned the Movant's call and confirmed her ongoing employment at [REDACTED] (Exhibit M-6).

49) On September 15, 2023, the Defendant submitted July 2023 paystub verification of income for [REDACTED] (Exhibit M-6).

### **APPLICABLE POLICY**

**West Virginia Income Maintenance Manual (WVIMM) § 1.2.4 Client Responsibilities provided in relevant parts:** The client is responsible for providing complete and accurate information about her circumstances so that the Worker can make a correct decision about her eligibility.

**Code of Federal Regulations 7 CFR § 273.16(a)(1) Disqualification for Intentional Program Violation (January 2023) provides in relevant sections:** Administrative disqualification procedures 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 IPV as defined in paragraph (c) of this section.

**Code of Federal Regulations 7 CFR § 273.16(b)(1) Disqualification penalties (January 2023) provides in relevant sections:** Individuals found to have committed an IPV by an ADH shall be ineligible to participate in the program for twelve months for the first IPV.

**Code of Federal Regulations 7 CFR § 273.16(b)(13) Disqualification penalties (January 2023) provides in relevant sections:** The individual must be notified in writing once it is determined that 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.

**Code of Federal Regulations 7 CFR § 273.16(c) Definition of intentional program violation (January 2023) provides in relevant sections:** IPV's shall consist of having intentionally: Made a false or misleading statement, or misrepresented, concealed, or withheld facts; or committed any act that constitutes a violation of the SNAP, SNAP regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of SNAP benefits or EBT cards.

**Code of Federal Regulations 7 CFR § 273.16(e)(6) Criteria for determining Intentional Program Violation (January 2023) provides in relevant sections:**

The hearing authority shall base the determination of an intentional program violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, intentional program violation as defined in paragraph (c) of this section.

**Code of Federal Regulations 7 CFR § 273.16(e)(8)(i) Imposition of disqualification penalties (January 2023) provides in relevant sections:** ... The same act of intentional program violation repeated over a period of time must not be separated so that separate penalties can be imposed.

**Code of Federal Regulations 7 CFR 273.1(a)(2) General household definition provides in relevant sections:** A household may be composed of an individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from others.

## DISCUSSION

The Movant requested the Defendant be disqualified from SNAP benefit eligibility for twelve months because she committed an IPV by failing to report earned income from [REDACTED] as required. The Defendant was advised of the hearing and failed to appear to contest the information presented by the Movant.

Repayment claims may only be combined with the ADH when the Defendant consents to the combination of the issues. As the issue of the hearing was to determine whether the Defendant committed an IPV, not repayment, submitted evidence related to SNAP over issuance amounts was given little weight in the decision of the Hearing Officer.

At application and when completing her review forms, the Defendant was responsible for providing complete and accurate information about her employment and income circumstances so that the Worker could correctly decide her eligibility.

### Unreported Income at Application

The evidence revealed the Defendant earned income from [REDACTED] from February 17, 2022 through December 28, 2023. The Defendant did not report her [REDACTED] earned income on her October 14, 2022 SNAP application. The evidence revealed that during the October 18, 2022 phone interview, the DoHS Worker recorded the Defendant's report of [REDACTED] as her only employer.

The Defendant reported on October 14, 2022, that she expected to receive \$400 total income for the month. The submitted records verified the gross income earned by the Defendant from [REDACTED] before her October 14, 2022 SNAP application. The evidence revealed that historically the Defendant received over \$400 gross monthly earned income from [REDACTED]. The evidence verified that the Defendant had already received \$402.73 in earned income from [REDACTED] and \$110 gross earned income from [REDACTED] before her October 14, 2022 SNAP application and October 18, 2022 eligibility interview.

### Unreported Income at Interim Contact and Review

Pursuant to the evidence, the Defendant was receiving earned income from [REDACTED] when she submitted her February 28, 2023 Interim Contact Form, and August 30, 2023 SNAP eligibility review form. The evidence revealed the Defendant did not report her [REDACTED] income by name or amount on her February 28, 2022 Interim Contact Form or August 30, 2023 eligibility review form.



On her February 18, 2023 Interim Contact Form, the Defendant indicated that the household's income had not increased from \$619.47 gross monthly earned income by more than \$125. The submitted evidence verified that the Defendant had received more than \$744.47 (\$619.47 + \$125) from February gross earned income from [REDACTED] before the February 28, 2022 Interim Contact Form was submitted.

On her August 30, 2023 SNAP eligibility review form, the Defendant only listed \$144 weekly gross earned income from [REDACTED]. At the time of the August 30, 2023 SNAP eligibility review form submission, the Defendant had already received two weekly [REDACTED] pays exceeding the weekly amount reported on the application and had received \$1,070.24 gross income from [REDACTED].

### **Intentional Program Violation**

The Movant must show by clear and convincing evidence that demonstrates the Defendant violated, and intended to make false or misleading statements, or misrepresented, concealed, or withheld facts regarding her [REDACTED] earned income to acquire SNAP benefits.

The Defendant had the opportunity at the October 2022 SNAP application and eligibility interview to disclose her unreported [REDACTED] income. The evidence revealed that at each reporting opportunity, the Defendant had already received unreported gross earned income exceeding the amount she reported on the forms. At each instance of unreported [REDACTED] income, the Defendant applied a written signature affirming the information she provided was true and correct. During her October 2022, February 28 and September 5, 2023 phone interviews, the Defendant did not report her [REDACTED] income. The Defendant did not disclose her [REDACTED] employment until September 7, 2023, after the DoHS Worker's September 5, 2023 call to inquire about the Defendant's [REDACTED] employment.

The Movant proved by clear and convincing evidence that the Defendant intentionally misrepresented her gross monthly earned income amount and concealed and withheld facts regarding her unreported [REDACTED] earned income to acquire SNAP benefits, beginning in October 2022.

### **CONCLUSIONS OF LAW**

- 1) The Defendant was required to provide accurate information regarding her employment and gross monthly earned income amount.
- 2) The Movant proved by clear and convincing evidence that the Defendant committed an Intentional Program Violation (IPV) of the SNAP by intentionally misrepresenting her gross monthly earned income amount and concealing and withholding facts regarding her unreported [REDACTED] earned income to acquire SNAP benefits, beginning in October 2022.
- 3) Because the Defendant committed an IPV, a first-offense SNAP disqualification penalty must be imposed.

**DECISION**

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation of the SNAP and a first-offense twelve-month SNAP disqualification penalty period must be imposed, effective June 2024.

**ENTERED this 8<sup>th</sup> day of May 2024.**

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