



July 9, 2024

[REDACTED]

RE: [REDACTED] v. INVESTIGATIONS AND FRAUD MANAGEMENT
ACTION NO.: 24-BOR-2180

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,

Kristi Logan
Certified State Hearing Officer
Member, State Board of Review

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

cc: Birdena Porter, Investigations and Fraud Management

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

████████████████████

Defendant,

v.

Action Number: 24-BOR-2180

**WEST VIRGINIA OFFICE OF 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 ██████████ requested by the Movant on May 10, 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 June 26, 2024.

The matter before the Hearing Officer arises from a request by Investigations and Fraud Management 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 twelve (12) months.

At the hearing, the Movant appeared by Birdena Porter, Investigations and Fraud Management. The Defendant failed to appear. The witness was placed under oath and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 SNAP Claim Determination Form
- M-2 SNAP Issuance History-Disbursement Screen
- M-3 SNAP Allotment Determination Screens
- M-4 Case Members History Screen
- M-5 SNAP Application dated May 12, 2023, and SNAP Interim Contact Form dated November 27, 2023
- M-6 Foster Care Payment History
- M-7 Advance Notice of Administrative Disqualification Hearing Waiver dated April 24, 2024

- M-8 Waiver of Administrative Disqualification Hearing signed May 7, 2024
- M-9 West Virginia Income Maintenance Manual §1.2.4
- M-10 West Virginia Income Maintenance Manual §11.2
- M-11 West Virginia Income Maintenance Manual §11.6
- M-12 Code of Federal Regulations – 7 CFR §273.16

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 (IPV) by falsely reporting her income and requested that a twelve (12) month penalty be imposed against her.
- 2) The Defendant was notified of the hearing by scheduling order mailed on May 15, 2024. The Defendant failed to appear for the hearing or provide good cause for her failure to do so. In accordance with 7 CFR §§273.16 (e)(3) and 273.16(e)(4) and Office of Inspector General Common Chapters Manual §740.20, the hearing was held without the Defendant in attendance.
- 3) The Defendant applied for SNAP benefits on May 12, 2023 (Exhibit M-5).
- 4) The Defendant listed her household's only income as child support received for her grandchildren, [REDACTED] (Exhibit M-5).
- 5) The Defendant answered "no" to the question "Is this person in Foster Care?" regarding [REDACTED] (Exhibit M-5).
- 6) SNAP benefits were approved based upon the information provided by the Defendant (Exhibits M-2 and M-3).
- 7) The Defendant submitted a SNAP interim contact form to the Respondent on November 27, 2023 (Exhibit M-5).
- 8) The Defendant made no changes to the unearned income amount of \$687.06 listed in her case record and answered "no" to the question "Has the source of your household's gross unearned income changed or has the amount increased or decreased by \$125 since you last reported a change?" (Exhibit M-5).
- 9) SNAP benefits were recertified based on the information provided by the Defendant.

- 10) The Movant verified that the Defendant had been receiving Kinship/Relative Foster Care payments of \$851 monthly for [REDACTED] and \$851 monthly for [REDACTED] since January 2023 (Exhibit M-6).

APPLICABLE POLICY

Code of Federal Regulations 7 CFR §273.16 explains Administrative Disqualification Hearing procedures:

273.16(c) Definition of an Intentional Program Violation

Intentional Program Violations 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 SNAP, SNAP regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of SNAP benefits or Electronic Benefit Transfer (EBT) cards.

273.16(b) Disqualification Penalties

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:

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;

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

Permanently for the third occasion of any Intentional Program Violation.

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 §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 §1.2.4 states that 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.

DISCUSSION

Federal regulations define an Intentional Program Violation as making a false statement related to the acquisition of SNAP benefits. An individual who is found to have committed an Intentional Program Violation is disqualified from participation in SNAP.

The Defendant had been receiving Kinship/Relative Foster Care payments for [REDACTED] since January 2023. The Defendant made a false statement on the May 2023 SNAP application by listing child support as her household’s only income and by denying that anyone in the household was in Foster Care. The Defendant had the opportunity to report the Foster Care payments on the November 2023 SNAP interim contact, which she failed to do. The Defendant’s actions meet the definition of an Intentional Program Violation.

CONCLUSIONS OF LAW

- 1) The Defendant made a false statement on May 2023 SNAP application by reporting that no one in her household was in foster care and that her household’s only income was from child support.
- 2) The Defendant began receiving Kinship/Relative Foster Care payments for [REDACTED] in January 2023.
- 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 12 months.

DECISION

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation. As this is the Defendant’s first offense, she will be excluded from participation in the Supplemental Nutrition Assistance Program for 12 months, effective August 1, 2024.

ENTERED this 9th day of July 2024.

Kristi Logan
Certified State Hearing Officer