



July 9, 2024

[REDACTED]

RE: [REDACTED] v. INVESTIGATIONS AND FRAUD MANAGEMENT  
ACTION NO.: 24-BOR-2198

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-2198**

**WEST VIRGINIA OIG 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 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 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 Hearing Summary
- M-2 SNAP Claim Determination Form
- M-3 SNAP Issuance History-Disbursement Screen
- M-4 SNAP Allotment Determination Screens
- M-5 Case Members History Screen
- M-6 SNAP Application dated February 14, 2024
- M-7 ██████████ Department of Human Services Issuance Summary/Search, Notice of Decision dated March 27, 2024, and Preliminary Hearing Order dated January 11, 2023

- M-8 Advance Notice of Administrative Disqualification Hearing Waiver dated April 29, 2024
- M-9 Waiver of Administrative Disqualification Hearing (unsigned copy)
- M-10 West Virginia Income Maintenance Manual §1.2.4
- M-11 West Virginia Income Maintenance Manual §11.2
- M-12 West Virginia Income Maintenance Manual §11.6
- M-13 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 status as a SNAP recipient in another state 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 February 14, 2024 (Exhibit M-6).
- 4) The Defendant answered “no” to the question, “Have you or anyone in your household received or do you expect to receive SNAP benefits from any other state this month?” (Exhibit M-6).
- 5) SNAP benefits were approved based on the information provided by the Defendant (Exhibits M-3 and M-4).
- 6) The Movant determined that the Defendant received SNAP benefits in [REDACTED] from October 2023 through April 2024 (Exhibit M-7).
- 7) The Movant verified that the Defendant used her SNAP benefits issued from [REDACTED] in West Virginia in February and March 2024 (Exhibit M-7).

### **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.

**West Virginia Income Maintenance Manual §2.5.1.** states that an individual may only receive benefits in one county and state. No person may receive SNAP benefits in more than one assistance group (AG) for the same month.

## 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 made a false statement on the February 2024 SNAP application by reporting that no one in her household had received or expected to receive SNAP benefits from another state for the month of application. The Movant verified that the Defendant was an active SNAP recipient in [REDACTED] when she applied for SNAP benefits in West Virginia and the Defendant continued to access her SNAP benefits from [REDACTED] while receiving SNAP benefits in West Virginia. The Defendant's actions meet the definition of an Intentional Program Violation.

## CONCLUSIONS OF LAW

- 1) The Defendant made a false statement on the February 2024 SNAP application by reporting that no one in her household had received SNAP benefits from another state.
- 2) The Defendant received SNAP benefits from [REDACTED] since October 2023 through April 2024.
- 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 9<sup>th</sup> day of July 2024.**

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**Kristi Logan**  
**Certified State Hearing Officer**