



August 27, 2024

[REDACTED]

RE: [REDACTED] v. OIG/IFM  
ACTION NO.: 24-BOR-2416

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,

Lori Woodward, J.D.  
Certified State Hearing Officer  
Member, State Board of Review

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

cc: Birdena Porter, OIG/IFM

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

██████████

**Defendant,**

v.

**BOR Action # 24-BOR-2416**

**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 June 11, 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 August 13, 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 (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 Elizabeth Mullins, 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 Supplemental Nutrition Assistance Program (SNAP) – 6 or 12 month contact form (PRC2), signed and dated September 1, 2023
- M-6 2023 Wage History from ██████████; 2024 Wage Verification from ██████████  
██████████ dated April 30, 2024
- M-7 Advance Notice of Administrative Disqualification Hearing Waiver dated May 28, 2024

- M-8 Waiver of Administrative Disqualification Hearing
- M-9 West Virginia Income Maintenance Manual, Chapter 1, §1.2.4
- M-10 West Virginia Income Maintenance Manual, Chapter 11, §11.2
- M-11 West Virginia Income Maintenance Manual, Chapter 11, §11.6
- M-12 Code of Federal Regulations – 7 CFR §273.16, *et. seq.*

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 that she had no earned income on her September 1, 2023 PRC2 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 July 9, 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 was required to complete a PRC2 by September 1, 2023, to continue receiving SNAP benefits. (Exhibit M-5).
- 4) On the returned PRC2 form, the Defendant answered “no” to the question “has your household’s gross earned income ... increased or decreased by more than \$125 from the amount above [\$0.00]?” (Exhibit M-5).
- 5) The Defendant signed that she certified that the statements on the PRC2 were true and correct to the best of her knowledge. (Exhibit M-5).
- 6) SNAP benefits were continued based upon the information provided by the Defendant (Exhibits M-2 and M-3).
- 7) The Movant verified that the Defendant had been employed since August 16, 2023. (Exhibit M-6).
- 8) The Movant sent the Defendant Advance Notice of Administrative Disqualification Hearing Waiver (ig-ifm-ADH Ltr) and Waiver of Administrative Disqualification Hearing (ig-ifm-ADH-waiver) on May 28, 2024. (Exhibits M-7 and M-8)
- 9) This is the Defendant’s first IPV.

## 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.

**WV IMM, Chapter 1, §1.2.4:** It is the client's responsibility is to provide complete and accurate information about his circumstances so that the Worker is able to make a correct determination about his eligibility.

**WV IMM, Chapter 11, §11.2.3.B, in part:** 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. An IPV can only be established in the following ways:

- The client signs an IG-BR-44, Waiver of Rights to an ADH
- By an ADH decision

- By Diversionary Consent Agreement
- By court decision

Once an IPV is established, a disqualification penalty is imposed on the AG member(s) who committed the IPV.

### **DISCUSSION**

The Movant requested the Defendant be disqualified from SNAP benefit eligibility for twelve months because she committed an Intentional Program Violation (IPV) by reporting she had no earned income on her 6 – 12 month reporting form (PRC2), signed and dated September 1, 2023.

An IPV is defined by state and federal regulations as false or misleading statements, or misrepresented, concealed or withheld facts which are made in relation to acquiring SNAP benefits. An individual who is found to have committed an IPV is disqualified from participation in SNAP. The Movant bears the burden of proof to demonstrate by clear and convincing evidence that the Defendant committed an IPV.

The Defendant began employment with [REDACTED] on August 16, 2023. [REDACTED] was then acquired by [REDACTED] sometime in January 2024. The Defendant remained employed by [REDACTED]. The Defendant was required to complete a PRC2 by September 1, 2023 to continue receiving SNAP benefits. On the PRC2 submitted by the Defendant on September 1, 2023, she stated that she had no earned income. The evidence revealed the Defendant certified that the statements provided on the PRC2 were true and correct. The submitted evidence established that the Defendant had earned income from Pinnacle Services and then d/b/a [REDACTED] from August 16, 2023 through May 1, 2024. The Defendant failed to appear for the hearing to refute the evidence presented.

The Movant proved by clear and convincing evidence that the Defendant falsely reported she had no earned income on the PRC2 she signed and dated on September 1, 2023. The Defendant's actions meet the definition of an IPV.

### **CONCLUSIONS OF LAW**

- 1) The Defendant falsely reported she had no earned income on her PRC2 signed and dated on September 1, 2023.
- 2) The evidence showed that the Defendant began employment on August 16, 2023 and continued to receive earned income at least until May 2024.
- 3) The Movant proved by clear and convincing evidence that the Defendant intentionally violated SNAP rules by falsely reporting she had no earned income on her PRC2 signed and dated September 1, 2023.

- 4) As this is the Defendant's first IPV offense, a twelve month SNAP disqualification penalty must be imposed.

**DECISION**

The State Hearing Officer finds that the Defendant committed a first offense IPV. It is hereby **ORDERED** that a twelve month SNAP disqualification penalty be imposed, effective October 2024.

**ENTERED this 27<sup>th</sup> day of August 2024.**

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**Lori Woodward, Certified State Hearing Officer**