



August 6, 2024



RE: [REDACTED] v. OIG/IFM
ACTION NO.: 24-BOR-2430

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 and 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,

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

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

cc: Donald Greathouse, IFM

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

████████████████████

Defendant,

v.

Action Number: 24-BOR-2430

**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 (ADH) for ██████████. The ADH was requested by the Movant on June 11, 2024. This hearing was held according to 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 July 9, 2024, the Defendant requested a continuation, and the hearing was reconvened on July 30, 2024.

The matter before the Hearing Officer arises from a request from Investigations and Fraud Management (IFM) that the Board of Review determine whether the Defendant has committed an intentional program violation and must be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for twenty-four (24) months.

At the hearing, the Movant was represented by Donald Greathouse, IFM. The Defendant failed to appear. Mr. Greathouse was placed under oath. The following exhibits were entered as evidence.

Movant's Exhibits:

- M-1 Benefit Recovery Referral (BVRF), dated May 10, 2024
BVRF, dated May 15, 2024
- M-2 SNAP Claim Determination Form
- M-3 IFM Notice, dated May 15, 2024
- M-4 Advance Notice of ADH Waiver
- M-5 Notice, dated May 11, 2022
- M-6 People's Access to Help (PATH) Application, dated November 11, 2022

- M-7 Case Comments, dated from November 28 through December 7, 2022
- M-8 Employment Data form, prepared on March 6, 2024
- M-9 Individual SNAP IPV Disqualification PATH screenprint
IFM Memorandum, dated February 7, 2014
- M-10 Electronic Code of Federal Regulations § 273.16 excerpts
- M-11 West Virginia Income Maintenance Manual (WVIMM) Chapter 11 excerpts
- M-12 WVIMM Chapter 1 excerpts

Defendant's Exhibits:

None

After reviewing the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, 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 Defendant received SNAP benefits from September 2022 through April 2023 (Exhibit M-2).
- 2) On May 10, 2024, the Movant received a Benefit Recovery Referral from DoHS alleging the Defendant failed to report earnings and unemployment income (Exhibit D-1). The referral period was from November 11, 2022, through April 30, 2023 (Exhibit D-1).
- 3) On May 15, 2024, the Movant received a BVRF from DoHS alleging the Defendant failed to report income when he exceeded the gross income limit in July 2022 (Exhibit D-1). The referral period was from September 1, 2022, through October 31, 2022 (Exhibit D-1).
- 4) On May 11, 2022, DoHS issued a notice advising the Defendant of his SNAP eligibility (Exhibit D-5). The notice instructed, "...effective 06/01/22 your monthly amount will remain at \$200.00. Your SNAP benefits will remain the same." (Exhibit D-5)
- 5) The May 11, 2022 notice instructed, "You must contact this office and report if the gross income of the individuals included in the SNAP benefit increases to more than \$2,148 per month" (Exhibit D-5).
- 6) The Defendant's May 11, 2022 SNAP eligibility was based on \$0 gross income and a \$1,396 SNAP gross income limit (Exhibit D-5).
- 7) On November 11, 2022, the Defendant applied for SNAP eligibility via DoHS PATH (Exhibit M-6).
- 8) The Defendant did not list any earned or unearned income on his PATH application (Exhibit M-6).

- 9) The Defendant electronically signed that he understood the questions and certified all information provided was true and correct (Exhibit M-6).
- 10) The Defendant checked the box indicating he read, understood, and agreed to the SNAP rights and responsibilities (Exhibit M-6).
- 11) On November 28, 2022, the Defendant completed his SNAP eligibility interview with the DoHS Worker (Exhibit M-7). The DoHS Worker recorded “[The Defendant] states he has no assets, income or expenses.” (Exhibit M-7)
- 12) On March 6, 2024, [REDACTED] Office Manager for [REDACTED] completed Employment Data and Wage History forms regarding the Defendant’s employment history (Exhibit M-8).
- 13) The Defendant was hired for employment with [REDACTED] on June 21, 2022, and was terminated on April 27, 2023 (Exhibit M-8).
- 14) The Defendant earned income from July 1, 2022, through May 8, 2023 (Exhibit M-8).
- 15) In July 2022, the Defendant made \$4,599.75 in gross earned income (Exhibit M-8).
- 16) In August 2022, the Defendant made \$4,870.80 in gross earned income (Exhibit M-8).
- 17) In September 2022, the Defendant made \$2,621.70 in gross earned income (Exhibit M-8).
- 18) In October 2022, the Defendant made \$2,396.70 in gross earned income (Exhibit M-8).
- 19) In November 2022, the Defendant made \$3,029.25 in gross earned income (Exhibit M-8).
- 20) State and federal taxes, social security, and child support were deducted from the Defendant’s pay (Exhibit M-8).
- 21) On November 26, 2013, the Defendant was found to have committed an IPV and was disqualified from SNAP participation for twelve months (Exhibit M-9).

APPLICABLE POLICY

WVIMM § 1.2.4 *Client Responsibility* provides that the client must provide complete and accurate information about his circumstances so that the Worker can make a correct determination about his eligibility.

WVIMM § 10.4.2 *Client Reporting Requirements* provides that all SNAP AGs must report changes related to eligibility and benefit amount at application and redetermination. SNAP AGs are subject to limited reporting requirements.

WVIMM § 10.4.2.A Limited Reporting provides that when approved with a gross non-excluded income at or below 130% of the Federal Poverty Level (FPL), an AG must report when the total gross non-excluded earned and unearned income of the Income Group (IG) exceeds 130% of the FPL for the number of individuals in the original AG.

WVIMM § 3.2.2 The Income Group provides that the income group includes all AG members.

Code of Federal Regulations 7 CFR § 273.12(d) Failure to Report instructs that if the State agency discovers that the household failed to report a change as required and received benefits to which it was not entitled due to the client's failure to report, the State agency shall file a claim against the household.

Code of Federal Regulations 7 CFR § 273.16(a)(1) Disqualification for Intentional Program Violation provides that 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)(ii) Disqualification penalties provide that individuals found to have committed an IPV by an ADH shall be ineligible to participate in the program for twenty-four months for the second IPV.

Code of Federal Regulations 7 CFR § 273.16(b)(13) Disqualification penalties provides that the individual must be notified in writing once it is determined that he 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 provides that IPV's shall consist of having intentionally: made a false or misleading statement, 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 provides:

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 provides that the same act of intentional program violation repeated over a period of time must not be separated so that separate penalties can be imposed.

DISCUSSION

The Movant requested the Defendant be disqualified from SNAP benefit eligibility for twenty-four months because he committed a second IPV by failing to report his earned income as required. The Defendant appeared at the initial hearing convening and requested a continuation of the hearing so that he could submit a signed ADH Waiver form to the Movant. The Defendant's request was granted and the hearing was rescheduled. The Defendant was notified of the rescheduled hearing date and failed to appear to contest the information presented by the Movant.

The Movant bears the burden of proof and had to demonstrate by clear and convincing evidence that the Defendant committed an intentional program violation by intentionally making false or misleading statements, misrepresenting, concealing, or withholding facts about his earned income to acquire and continue receiving SNAP benefits.

Under the policy, the Defendant was required to report correct information about his circumstances so that the DoHS could make a correct decision about his SNAP eligibility. The DoHS was required to inform the Defendant of his income reporting responsibilities. As revealed by the evidence, on May 11, 2022, the Defendant was advised in writing of his requirement to report when the household's monthly gross income exceeded \$2,148. The Movant proved by clear and convincing evidence, that the Defendant's gross monthly income first exceeded this amount in July 2022. The evidence revealed that the Defendant did not report when his income exceeded \$2,148.

The Defendant was required to report earned and unearned income on his November 11, 2022 PATH application. The evidence revealed the Defendant signed his acknowledgment that the information provided on the PATH application was true and correct. The submitted evidence established that the Defendant earned income from [REDACTED] from June 21, 2022, through April 27, 2023. The Movant proved by clear and convincing evidence that the Defendant failed to report his earned income as required on his November 11, 2022 SNAP PATH application. As the evidence revealed the Defendant failed to report he was consistently receiving gross earned income above \$2,148, the Movant demonstrated by clear and convincing evidence that the Defendant intentionally misrepresented, concealed, and withheld facts about his earned income to continue receiving SNAP benefits.

The evidence revealed that the Defendant previously committed an IPV in November 2013 and was disqualified from SNAP participation for twelve months. According to the regulations, for a second IPV, a twenty-four-month SNAP disqualification penalty must be applied.

CONCLUSIONS OF LAW

- 1) The Defendant was required to provide accurate information regarding his employment status and gross monthly earned income amount.
- 2) The Movant proved by clear and convincing evidence that the Defendant intentionally violated SNAP rules by intentionally misrepresenting, concealing, and withholding facts about his employment and earned income to acquire SNAP benefits.

- 3) Because the Defendant committed a previous IPV, a second-offense SNAP disqualification penalty of twenty-four (24) months must be imposed.

DECISION

The State Hearing Officer finds that the Defendant committed an Intentional Program Violation of the Supplemental Nutrition Assistance Program. It is hereby ORDERED a second-offense twenty-four-month SNAP disqualification penalty period must be imposed, effective September 2024.

ENTERED this 6th day of August 2024.

Tara B. Thompson, MLS
State Hearing Officer