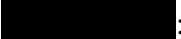




August 1, 2024



RE:  **v. INVESTIGATIONS AND FRAUD MANAGEMENT**
BOR Action No.: 24-BOR-2534

Dear :

Enclosed is a copy of the decision resulting from the Administrative Disqualification 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 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,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

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

cc: Birdena Porter, IFM

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

████████████████████

Defendant,

v.

Action Number: 24-BOR-253

**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 25, 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. This hearing convened on August 1, 2024.

The matter before the Hearing Officer arises from a request by the Movant for a determination as to whether the Defendant 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 Birdena Porter, Repayment Investigator. The Defendant failed to appear. All witnesses were sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 Food Stamp Claim Determination
- M-2 Printout of SNAP Issuance History
- M-3 Food Stamp Allotment Determination
- M-4 Case Members History
- M-5 CSLR dated November 6, 2023
- M-6 PRC-2 dated May 1, 2024
- M-7 Income Verification
- M-8 Advance Notice of Administrative Disqualification Hearing Waiver

- M-9 Waiver of Administrative Disqualification Hearing
- 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 § 273.16

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) The Movant alleged that the Defendant committed an Intentional Program Violation of SNAP by withholding income information available to her household and requested that a twelve (12)-month penalty be imposed against the Defendant.
- 2) The Defendant was notified of the hearing by scheduling order on June 26, 2024, to the address of [REDACTED]
- 3) The Defendant received the scheduling order on July 1, 2024.
- 4) The hearing was scheduled to begin at 11:00 A.M., by 11:15 A.M. the Defendant failed to appear. In accordance with 7 CFR §§273.16 (e)(3) and 273.16(e)(4) and West Virginia Office of Inspector General Common Chapters Manual, §740.20, the hearing was held without the Defendant in attendance.
- 5) The Defendant and her cohabitor, [REDACTED] were recipients of SNAP benefits for their household.
- 6) [REDACTED] was sanctioned from receipt of SNAP benefits due to a previously imposed work registration requirement penalty.
- 7) On June 13, 2023, [REDACTED] began receiving employment income from [REDACTED] (Exhibit M-7)
- 8) [REDACTED] received employment income from July 2023 through June 2024. (Exhibit M-7)
- 9) On November 6, 2023, the Defendant completed a redetermination for SNAP benefits and failed to report [REDACTED] earned income. (Exhibit M-5)

- 10) On May 1, 2024, the Defendant completed an additional redetermination for SNAP benefits and failed to report [REDACTED] earned income. (Exhibit M-6)

APPLICABLE POLICY

Code of Federal Regulations, 7 CFR §273.16 documents:

An individual making a false or misleading statement, or misrepresenting, concealing, or withholding facts, violating the Food Stamp Program (SNAP), or any State statute for the purpose of acquiring, receiving, possessing, or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system has committed an Intentional Program Violation (IPV).

Code of Federal Regulations, 7 CFR §273.16(b) documents:

(1) 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:

(i) 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;

(ii) 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

(iii) Permanently for the third occasion of any Intentional Program Violation.

(13) 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 §1.2.4 documents:

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 §11.2.3. B documents:

IPVs 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 §3.2.1. B.5 documents:

Persons who have been found guilty of an IPV are disqualified as follows:

- First offense – one-year disqualification
- Second offense - two-year disqualification
- Third offense - permanent disqualification

West Virginia Income Maintenance Manual § 4.4.4.H.1 documents:

The income of the following disqualified and excluded individual(s) is counted as if he were a member of the AG.

- An individual who is in a SNAP penalty for failure to comply with SNAP work requirements. See Section 14.5.
- An individual who is excluded by law. See Section 3.2.
- An individual who has been found guilty of an Intentional Program Violation (IPV). See Section 3.2.

All applicable exclusions, disregards, and deductions apply to the individual(s) income; however, the individual is not included in the AG when determining eligibility or benefit level.

DISCUSSION

The Movant requested an Administrative Disqualification Hearing from the Board of Review citing that the Defendant committed an Intentional Program Violation (IPV) by willfully withholding employment income available to her household.

The Movant requested that the Defendant be disqualified from receiving SNAP benefits for a period of twelve (12) months.

For purposes of the Administrative Disqualification Hearing, the Movant must prove by clear and convincing evidence that the Defendant intentionally made false or misleading statements, misrepresented, concealed, or withheld facts to obtain SNAP assistance to which she was not entitled.

The Movant contends that the Defendant's cohabitor became employed with [REDACTED] in June 2023 and maintained a consistent employment income from July 2023 through June 2024. The Movant indicated that although the Defendant's cohabitor was previously sanctioned and penalized for failure to comply with governing work registration requirements she was still required to report the income. The Movant testified that the Defendant failed to report the income on multiple occasions, specifically at redeterminations on November 6, 2023 (Exhibit M-5) and May 1, 2024 (Exhibit M-6).

It is the individual's responsibility to provide complete and accurate information about their circumstances to ensure a correct determination concerning eligibility. Governing policy requires that the income of excluded individuals, who are serving a penalty for failure to comply with SNAP work requirements, is counted as if the individual were a member of the assistance group.

The Defendant had the opportunity and responsibility to report her cohabitor's income on multiple occasions and failed to do so. The Defendant's actions meet the definition of an Intentional Program Violation. Therefore, the Movant's proposal to impose a 12-month IPV is affirmed.

CONCLUSIONS OF LAW

- 1) The Defendant withheld information concerning her cohabitor's earned income by failing to report the income at multiple SNAP certifications.
- 2) By failing to report the income, the household received additional SNAP benefits for which it was not entitled to receive.
- 3) The act of withholding facts concerning household circumstances constitutes an Intentional Program Violation.
- 4) The penalty for a first-offense Intentional Program Violations 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. The Movant's proposal to impose a 12-month IPV penalty on SNAP benefits is UPHOLD, effective September 1, 2024.

ENTERED this _____ day of August 2024.

Eric L. Phillips
State Hearing Officer