



September 17, 2024

[REDACTED]

RE: [REDACTED] v. OIG/INVESTIGATIONS AND FRAUD  
MANAGEMENT  
ACTION NO.: 24-BOR-2777

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-2777**

**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 July 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. The hearing was convened on September 3, 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
- M-3 SNAP Allotment Determination
- M-4 Case Members History
- M-5 SNAP Interim Contact Form (PRC-2) received February 26, 2024
- M-6 Electronic Benefit Transfer (EBT) Transaction History from August 1, 2023 – July 1, 2024
- M-7 Advance Notice of Administrative Disqualification Hearing Waiver dated July 8, 2024
- M-8 Waiver of Administrative Disqualification Hearing (unsigned copy)

- M-9 West Virginia Income Maintenance Manual §2.2
- 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 §11.6.1
- 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 residency 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 30, 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) On January 22, 2024, the Department of Human Services (DoHS) mailed an Interim Contact Form to the Defendant at [REDACTED] to be completed and returned (Exhibit M-5).
- 4) The Defendant returned the completed form to the [REDACTED] DoHS office on February 26, 2024 (Exhibit M-5).
- 5) The Defendant reported no changes to her address (Exhibit M-5).
- 6) Under the section *Shelter and Utility Cost Changes*, the Defendant answered, “I have not moved” in response to the question “*Tell us how your household expenses have changed?*” (Exhibit M-5).
- 7) The Movant received a referral alleging that the Defendant had been residing in another state since September 2023.
- 8) The Defendant’s EBT transaction history showed that the Defendant began using her EBT card to access her SNAP benefits in [REDACTED] on or around September 19, 2023 (Exhibit M-6).
- 9) The Defendant regularly used her EBT card in [REDACTED] from September 19, 2023, through July 1, 2024 (Exhibit M-6).

- 10) The Defendant did not use her EBT card in West Virginia from September 19, 2023, through July 1, 2024 (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.

**West Virginia Income Maintenance Manual §2.2** states to be eligible to receive benefits, the client must be a resident of West Virginia.

**West Virginia Income Maintenance Manual §2.2.1** states regardless of the reason for the absence, any person expected to be absent from the home for a full calendar month or more is not eligible to be included in the SNAP assistance group (AG). Shorter absences do not affect eligibility. This policy applies to visiting, obtaining vocational training or education, and obtaining medical care. This policy applies to in-state and out-of-state travel.

### **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.

Policy stipulates that to receive SNAP benefits in West Virginia, an individual must be a resident of West Virginia. If the individual is absent from the home for a full calendar month or more, the individual is ineligible to be included in the SNAP assistance group.

The Defendant made a false statement on the February 26, 2024, Interim Contact Form by reporting that she had not moved. The Movant provided clear and convincing evidence that the Defendant was residing in [REDACTED] from September 2023 through July 2024 as documented by the Defendant’s continuous use of her EBT benefits in [REDACTED]. The Defendant did not use her EBT benefits in West Virginia from September 19, 2023, through July 1, 2024, confirming that the Defendant was not residing in West Virginia during this time period. The Defendant failed to appear for the hearing to refute the evidence and testimony that was presented.

The actions of the Defendant meet the definition of an Intentional Program Violation.

### **CONCLUSIONS OF LAW**

- 1) The Defendant made a false statement on the February 2024 Interim Contact Form by reporting that she had not moved.
- 2) The Defendant continuously used her EBT benefits in [REDACTED] from September 19, 2023, through July 1, 2024.
- 3) The Defendant did not use her EBT benefits in West Virginia from September 19, 2023, through July 1, 2024.

- 4) The Defendant was ineligible to receive SNAP benefits in West Virginia while residing in another state.
- 5) The act of making a false statement to obtain SNAP benefits constitutes an Intentional Program Violation.
- 6) 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 October 1, 2024.

**ENTERED this 17<sup>th</sup> day of September 2024.**

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**Kristi Logan  
Certified State Hearing Officer**