



September 10, 2024

[REDACTED]

RE: [REDACTED] v. INVESTIGATIONS AND FRAUD MANAGEMENT
ACTION NO.: 24-BOR-2840

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
State Hearing Officer
Member, State Board of Review

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

cc: Donald Greathouse, Investigations and Fraud Management

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

████████████████████,

Defendant,

v.

Action Number: 24-BOR-2840

**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 (ADH) for ██████████ requested by the Movant on August 1, 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 20, 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 24 months.

At the hearing, the Movant appeared by Donald Greathouse, Investigations and Fraud Management. The Defendant did not appear. Mr. Greathouse was placed under oath and the following exhibits were entered into the record:

Movant's Exhibits:

- M-1 SNAP Claim Determination forms
Benefit Recovery Referral, dated June 27 and March 11, 2024
- M-2 Notice, dated July 11, 2024
- M-3 Advance Notice of ADH Waiver
- M-4 Case Benefit Summary
- M-5 inROADS SNAP application, dated November 20, 2019
People's Access to Help (PATH) SNAP applications, dated August 13, 2020
PATH application, dated August 19, 2020
PATH application, dated June 15, 2021
PATH application, dated December 10, 2021

- PATH application, dated February 17, 2022
- M-6 SNAP Interim Contact form, scanned on June 23, 2022
- M-7 SNAP Interim Contact form, scanned on January 18, 2023
- M-8 State of [REDACTED] Request for
Waiver of Disqualification Hearing
[REDACTED] Intentional Program Violation Client Notice, dated September 27, 2019
PATH Individual SNAP IPV Disqualification screenprint
- M-9 Case comments, dated September 15, 2019

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 Defendant received SNAP benefits on July 7, 2019; from November 2019 through June 7, 2020; September 4, 2020; from June 30, 2021 through November 3, 2021; and from March 9, 2022 through June 7, 2023 (Exhibit M-4).
- 2) On September 13, 2019, the Defendant signed a [REDACTED] Waiver of Disqualification Hearing and marked: "I admit to the facts as presented in the enclosed summary and understand that I will be disqualified from the programs shown without a hearing" (Exhibit D-8).
- 3) The [REDACTED] Waiver of ADH disqualified the Appellant from receiving SNAP benefits for "10 years for receipt of duplicate FAP benefits" (Exhibit M-8).
- 4) The Appellant was disqualified from Food and Nutrition Service participation beginning on November 1, 2019 (Exhibit M-8).
- 5) On September 27, 2019, [REDACTED] issued a notice advising the Defendant she was disqualified from receiving Food Assistance benefits for 10 years, from November 1, 2019, through October 31, 2029 (Exhibit M-8).
- 6) On November 20, 2019, the Defendant applied for SNAP benefits and replied *No* to *Did the household move from another state?* (Exhibit M-5).
- 7) On the November 20, 2019, August 19, 2020, December 10, 2021, and February 17, 2022 applications, the Defendant marked *No* to *Lying or misrepresenting your identity*; *Snap Exchanging*, and *Snap Trafficking* (Exhibit M-5). On her August 13, 2020 application, she left these questions blank (Exhibit M-5).

- 8) Each application form notified the Defendant in writing of the disqualification penalties for IPV (Exhibit M-5).
- 9) The Defendant submitted SNAP Interim Contact forms on June 23, 2022, and January 18, 2023 (Exhibits M-6 and M-7).

APPLICABLE POLICY

Code of Federal Regulations 7 CFR § 273.16(c) *Definition of intentional program violation* provides that IPV violations shall consist of having intentionally:

- (1) Made a false or misleading statement, or misrepresented, concealed or withheld facts; or
- (2) Commit 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 EBT cards.

Code of Federal Regulations 7 CFR § 273.16(e)(8)(iii) *Imposition of disqualification penalties* provides that once a disqualification penalty has been imposed against a currently participating household member, the period of disqualification shall continue uninterrupted until completed regardless of the eligibility of the disqualified member's household.

Code of Federal Regulations 7 CFR § 273.16(a)(3) *Administrative Responsibility* provides that the State agency shall base administrative disqualifications for intentional program violations on the determinations of hearing authorities arrived at through administrative disqualification hearings or on determinations reached by courts of appropriate jurisdiction in accordance with paragraph (g) of this section. However, any State agency has the option of allowing accused individuals either to waive their rights to administrative disqualification hearings in accordance with paragraph (f) of this section or to sign disqualification consent agreements for cases of deferred adjudication in accordance with paragraph (h) of this section. Any State agency that chooses either of these options may base administrative disqualifications for intentional program violation on the waived right to an administrative disqualification hearing or on the signed disqualification consent agreement in cases of deferred adjudication.

Code of Federal Regulations 7 CFR § 273.16(b)(1)(ii) provides that individuals who have committed an IPV either through an administrative disqualification hearing, or by a Federal, State, or local court, or who have signed a waiver of the right to an administrative disqualification hearing shall be ineligible to participate in SNAP. For the second occasion of IPV, the individual is disqualified for twenty-four months.

Code of Federal Regulations 7 CFR § 273.16(b)(13) provides that 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 individuals' household.

West Virginia Income Maintenance Manual § 1.2.4 Client Responsibility provides that the client's responsibility is to provide complete and accurate information about her circumstances so that the worker can make a correct determination about her eligibility.

Code of Federal Regulations 7 CFR § 273.16(e)(4) provides that if the household member or its representative cannot be located or fails to appear at a hearing initiated by the State agency without good cause, the hearing shall be conducted without the household member being represented. Even though the household member is not represented, the hearing official is required to carefully consider the evidence and determine if an intentional program violation was committed based on clear and convincing evidence.

DISCUSSION

The Movant petitioned the Board of Review for an Administrative Disqualification Hearing (ADH) to establish that the Defendant committed an Intentional Program Violation (IPV) of the Supplemental Nutrition Assistance Program (SNAP). The Movant asserted that Defendant committed an IPV of SNAP by intentionally making false or misleading statements, misrepresenting, concealing, or withholding facts to obtain SNAP benefits. The Movant requested the Defendant be disqualified from SNAP participation for 24 months. The Defendant was notified of the ADH scheduling and failed to appear

A SNAP recipient may be disqualified from SNAP eligibility for twenty-four months when an individual is found to have committed a second IPV. According to the evidence, the Defendant signed a waiver of ADH admitting to the facts of her previous IPV. The submitted evidence revealed that written notice was issued to the Defendant notifying her of SNAP disqualification beginning on November 1, 2019. The evidence clearly demonstrated that beginning in the same month as her SNAP disqualification, the Defendant intentionally withheld facts at SNAP application and subsequent redeterminations regarding her previous [REDACTED] IPV and active SNAP disqualification penalty to obtain SNAP benefits in West Virginia.

CONCLUSIONS OF LAW

- 1) The Defendant signed a waiver of ADH on September 13, 2019.
- 2) The Defendant was disqualified from participating in SNAP beginning on November 1, 2019.
- 3) The Movant proved by clear and convincing evidence that beginning in November 2019, the Defendant committed an intentional program violation by misrepresenting, concealing, and withholding facts regarding her [REDACTED] IPV and active SNAP disqualification to obtain SNAP benefits in West Virginia.
- 4) Because the Defendant committed a second IPV offense, a twenty-four-month SNAP disqualification penalty must be imposed.

DECISION

The State Hearing Officer finds that the Defendant has committed a second act of Intentional Program Violation of the Supplemental Nutrition Assistance Program and must be disqualified from SNAP participation for twenty-four months, beginning in October 2024.

ENTERED this 10th day of September 2024.

Tara B. Thompson, MLS
State Hearing Officer