



September 19, 2024

[REDACTED]

RE: [REDACTED] **v. OIG/INVESTIGATIONS AND FRAUD MANAGEMENT**  
Action No.: 24-BOR 2980

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,

Eric L. Phillips  
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-2980**

**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 August 20, 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 fair hearing was convened on September 19, 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 twenty-four (24) months.

At the hearing, the Movant appeared by Donald Greathouse, Repayment Investigator. The Defendant failed to appear. All witnesses were sworn and the following documents were admitted into evidence.

**Movant's Exhibits:**

- M-1 SNAP Claim Determination
- M-2 Investigations and Fraud Management appointment letter dated July 31, 2024
- M-3 Advance Notice of Administrative Disqualification Hearing Waiver dated August 7, 2024
- M-4 Case Benefit Summary
- M-5 PRC-2 dated March 29, 2023
- M-6 ████████ Department of Job and Family Services Notice of Disqualification for Intentional Program Violation
- M-7 Code of Federal Regulations – 7 CFR §273.16

- M-8 West Virginia Income Maintenance Manual §11.2.3.B
- M-9 West Virginia Income Maintenance Manual §1.2.4

**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 (IPV) by failing to report current a Supplemental Nutrition Assistance Program (SNAP) IPV she was serving in another state.
- 2) By scheduling order, the Defendant was notified of the Administrative Disqualification Hearing on August 22, 2024, at the address of [REDACTED].
- 3) The hearing was scheduled to begin at 9:00 A.M., by 9:15 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.
- 4) On November 1, 2022, the Defendant agreed to an IPV and waived her right to an Administrative Disqualification Hearing in the state of [REDACTED] (Exhibit D-6)
- 5) The Defendant served a first violation IPV in the state of [REDACTED] from December 1, 2022 through November 30, 2023. (Exhibit D-6)
- 6) The Defendant completed a recertification for SNAP benefits in the state of West Virginia on March 29, 2023 and did not disclose the current IPV.
- 7) The Defendant received a maximum allotment of SNAP benefits from May 1, 2023 through November 30, 2023, in the state of West Virginia for which she was not entitled. (Exhibit M-1)

## 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

**DISCUSSION**

The Movant requested an Administrative Disqualification Hearing from the Board of Review citing that the Defendant committed an Intentional Program Violation (IPV) by failing to report a current SNAP IPV disqualification penalty in another state at the time of application for benefits in the state of West Virginia.

The Movant requested that the Defendant be disqualified from receiving SNAP benefits for a period of twenty-four (24) 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.

On November 1, 2022, the Defendant waived her right to an Administrative Disqualification Hearing in the state of [REDACTED] and agreed to a disqualification period from December 1, 2022 through November 30, 2023. (Exhibit M-6) On March 29, 2023, the Defendant completed a recertification for SNAP benefits in the state of West Virginia and failed to disclose the first IPV offense in the other state. The Defendant received benefits in the state of West Virginia from May 1, 2023 through November 30, 2023, for which she was not entitled to receive.

Evidence is clear that the Defendant was disqualified from receiving SNAP benefits until November 30, 2023, due to 12-month IPV instituted in another state. The Defendant failed to report this information at her application for benefits in the state of West Virginia. While evidence documents that a clerical error with the data exchange system did not initiate notice of the IPV until May 2023, governing policy requires that individuals provide complete and accurate information about their circumstances to ensure a correct determination concerning eligibility. Because the Defendant failed to report the current IPV at the time of application for benefits in the state of West Virginia, the Defendant's actions meet the definition of an IPV. Therefore, the

Movant's proposal to impose a 24-month IPV is affirmed.

**CONCLUSIONS OF LAW**

- 1) The Defendant withheld information concerning her serving a SNAP disqualification period in another state at the time of her application for benefits in the state of West Virginia.
- 2) By failing to report the SNAP disqualification penalty, the Defendant received SNAP benefits for which she was not entitled to receive.
- 3) The act of withholding facts concerning household circumstances constitutes an Intentional Program Violation.
- 4) The penalty for a second-offense Intentional Program Violation is exclusion from participation in SNAP for 24 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 24-month IPV penalty on SNAP benefits is UPHELD, effective November 1, 2024.

**ENTERED this \_\_\_\_\_ day of September 2024.**

\_\_\_\_\_  
Eric L. Phillips  
State Hearing Officer