



September 26, 2024

[REDACTED]

RE: [REDACTED] **v. OIG/INVESTIGATIONS AND FRAUD MANAGEMENT**  
Action No.: 24-BOR-3076

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 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-3076**

**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 29, 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 September 25, 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, 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 SNAP Issuance History
- M-3 Computer printout of SNAP calculation
- M-4 Case Member History
- M-5 CSLR Redetermination dated December 19, 2023
- M-6 Award Letters from Social Security Administration dated July 16, 2024
- M-7 Advance Notice of Administrative Disqualification Hearing Waiver
- M-8 Waiver of Administrative Disqualification Hearing

- M-9 West Virginia Income Maintenance Manual §1.2.4
- M-10 West Virginia Income Maintenance Manual §11.2.1
- M-11 West Virginia Income Maintenance Manual §11.6.1
- M-12 Code of Federal Regulations – 7 CFR §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 (IPV) by failing to report his children's receipt of income from the Social Security Administration (SSA) at a Supplemental Nutrition Assistance Program (SNAP) benefit redetermination.
- 2) By scheduling order, the Defendant was notified of the Administrative Disqualification Hearing on August 29, 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) The Defendant was a recipient of SNAP benefits.
- 5) The Defendant's household consisted of himself and his two children.
- 6) In July 2023, both of the Defendant's children began receiving monthly unearned income from the SSA in the amount of \$710.00. (Exhibit M-6)
- 7) The Defendant completed a redetermination for SNAP benefits on December 19, 2023.
- 8) The Defendant only reported his own monthly income in the amount of \$914.00 from the SSA.
- 9) The Defendant failed to report his children's SSA income at the redetermination.
- 10) This is the Defendant's first level IPV offense.

## 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 the onset of his children’s income from the Social Security Administration (SSA).

The Movant requested that the Defendant be disqualified from receiving SNAP benefits for a 12-month period.

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 he was not entitled.

In July 2023, the Defendant began receiving a monthly benefit from the SSA for each of his children in the amount of \$710.00. (Exhibit M-6) The Defendant was required to complete a redetermination of his SNAP benefits in December 2023. During the recertification, the Defendant reported his own income from the SSA but failed to report the onset of his children’s income. In July 2024, the Movant discovered the additional income from SSA (Exhibit M-6) and determined that the Defendant received additional benefits from February 2024 through July 2024, for which he was not entitled to receive.

Evidence is clear that the Defendant began receiving an additional \$1420 from the SSA and was required to report this income information at his December 2023 SNAP recertification. Governing policy requires that individuals provide complete and accurate information about their circumstances to ensure a correct determination concerning eligibility. The Defendant failed to appear to refute the evidence presented. Because the Defendant failed to report the additional income, the Defendant’s action meets the definition of an IPV. Therefore, the Movant’s proposal to impose a 12-month IPV is affirmed.

**CONCLUSIONS OF LAW**

- 1) The Defendant withheld information concerning the onset of additional income from the SSA at the time of his recertification for SNAP benefits.
- 2) By failing to report the additional income, the Defendant received SNAP benefits for which he was not entitled to receive.
- 3) The act of withholding facts concerning household circumstances constitutes an Intentional Program Violation.
- 4) As this is the Defendant's first IPV offense, a twelve-month SNAP disqualification penalty must be imposed.

**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 UPHELD, effective November 1, 2024.

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

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