



November 12, 2024

[REDACTED]

RE: [REDACTED] v. OIG/IFM
ACTION NO.: 24-BOR-3064

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 assure 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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

cc: Elizabeth Mullins, OIG/IFM

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

██████████,

Defendant,

v.

Action Number: 24-BOR-3064

**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 August 28, 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 October 22, 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 (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 Elizabeth Mullins. The Defendant failed to appear. The witness was placed under oath and the following documents were admitted into evidence.

Movant's Exhibits:

- D-1 Federal regulations (excerpt)
- D-2 SNAP review document, dated February 23, 2024
- D-3 Income verification
- D-4 SNAP claim determination and supporting documentation

- D-5 West Virginia Income Maintenance Manual policy excerpt
- D-6 West Virginia Income Maintenance Manual policy excerpt
- D-7 West Virginia Income Maintenance Manual policy excerpt
- D-8 Advance Notice of Administrative Disqualification Hearing Waiver
Waiver of Administrative Disqualification Hearing

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 falsely reporting that she had no earned income and requested that a twelve (12) month penalty be imposed against the Defendant.
- 2) The Defendant was notified of the hearing by scheduling order mailed on September 19, 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) The Defendant was a recipient of SNAP benefits with a household size of one (1).
- 4) The Defendant completed a SNAP review document (Exhibit D-2) on February 23, 2024.
- 5) The Defendant reported on this document (Exhibit D-2) that her household's gross earned income had not changed by more than \$125 from the zero-income amount used in her SNAP budget.
- 6) The Defendant reported (Exhibit D-2) that she had not "...changed, started or stopped a job..." resulting in a change in her household's gross earned income.
- 7) The Movant obtained earned income verification (Exhibit D-3) for the Defendant from May 29, 2023, through July 24, 2024.

- 8) The Movant sent the Defendant the Advance Notice of Administrative Disqualification Hearing Waiver form and the Waiver of Administrative Disqualification Hearing form (Exhibit D-8).
- 9) The Defendant has no prior IPVs.

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.

WV IMM, Chapter 1, §1.2.4: It is the client's responsibility is to provide complete and accurate information about his circumstances so that the Worker is able to make a correct determination about his eligibility.

WV IMM, Chapter 11, §11.2.3.B, in part: 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. An IPV can only be established in the following ways:

- The client signs an IG-BR-44, Waiver of Rights to an ADH
- By an ADH decision
- By Diversionary Consent Agreement
- By court decision

Once an IPV is established, a disqualification penalty is imposed on the AG member(s) who committed the IPV.

DISCUSSION

The Movant requested the Defendant be disqualified from SNAP benefit eligibility for twelve months because she committed an Intentional Program Violation (IPV) by reporting she had no earned income.

An IPV is defined by state and federal regulations as false or misleading statements, or misrepresented, concealed or withheld facts which are made in relation to acquiring SNAP benefits. An individual who is found to have committed an IPV is disqualified from participation in SNAP. The Movant bears the burden of proof to demonstrate by clear and convincing evidence that the Defendant committed an IPV.

The Movant verified that the Defendant had been receiving earned income continuously from May 29, 2023, through July 24, 2024, from employment with [REDACTED]. The evidence revealed that the Defendant reported no income, no change in income, and no onset of employment on a February 23, 2024 SNAP review document (Exhibit D-2), at which time she was actively employed with income. The Defendant certified (Exhibit D-2) that the statements on her SNAP review document were true and correct. Based on the information the Defendant reported on this form, she was issued SNAP benefits for which she was not entitled.

The Movant proved by clear and convincing evidence that the Defendant falsely reported she had no earned income on a SNAP review document to obtain SNAP benefits for which she was not entitled. The Defendant's actions meet the definition of an IPV. This is the Defendant's first IPV.

CONCLUSIONS OF LAW

- 1) State and federal regulations define an Intentional Program Violation as false or misleading statements, or misrepresented, concealed or withheld facts which are made in relation to acquiring SNAP benefits.
- 2) An individual who is found to have committed an IPV is disqualified from participation in SNAP.

- 3) The evidence showed that the Defendant was receiving earned income from employment at the time she reported on a SNAP review document that she had neither employment nor earnings.
- 4) The Movant proved by clear and convincing evidence that the Defendant intentionally violated SNAP rules by falsely reporting she had no earned income to receive SNAP benefits for which she was not entitled.
- 5) As this is the Defendant's first IPV offense, a twelve-month SNAP disqualification penalty must be imposed.

DECISION

The State Hearing Officer finds that the Defendant committed a first-offense IPV. It is hereby **ORDERED** that a twelve-month SNAP disqualification penalty be imposed, effective December 1, 2024.

ENTERED this _____ day of November 2024.

**Todd Thornton
State Hearing Officer**