



November 22, 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 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,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

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

cc: Jake Wegman, AAG

**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 the Defendant 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 fair hearing was originally convened on September 25, 2024, in which the Defendant failed to appear and a decision was later issued on September 26, 2024. Due to an improper scheduling notice of the original hearing, the September 2024 decision was set aside for an additional hearing after receiving good cause information from the Defendant. The rescheduled hearing was convened on November 13, 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 Jake Wegman, Assistant Attorney General. Appearing as a witness for the Movant was 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 Computer printout of SNAP issuance history
- M-3 Food Stamp Allotment Determination
- M-4 Case Members History
- M-5 CLSR dated December 19, 2023

- M-6 Letter from Social Security Administration
- M-7 Advance Notice of Administrative Disqualification Hearing Waiver dated August 29, 2024
- 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 the household's receipt of income from the Social Security Administration (SSA) at a Supplemental Nutrition Assistance Program (SNAP) benefit redetermination.
- 2) An Administrative Disqualification Hearing was scheduled for September 25, 2024.
- 3) By scheduling order issued on August 29, 2024, the Defendant was notified of the Administrative Disqualification Hearing at the address of [REDACTED].
- 4) The September 25, 2024 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.
- 5) On September 26, 2024, the State Hearing Officer upheld the Movant's proposal that the Defendant committed an IPV.
- 6) On October 2, 2024, the Defendant, by written notice, requested a hearing on a separate SNAP repayment claim, 24-BOR-3365, and indicated that he did not attend the September 25, 2024, Administrative Disqualification Hearing due to a [REDACTED].
- 7) Code of Federal Regulations 7 CFR §273.16 (3)(i) requires a minimum notice of 30 days advance notice of the scheduled hearing to the individual suspected of committing an IPV.

- 8) Due to clerical error, the Defendant was not provided 30 days' advance notice of the September 25, 2024 Administrative Disqualification Hearing.
- 9) On October 10, 2024, the State Hearing Officer issued an order setting aside the September 26, 2024 decision and rescheduled the Administrative Disqualification Hearing in combination with the SNAP repayment claim hearing request.
- 10) By scheduling order, the Defendant was notified of the Administrative Disqualification Hearing and SNAP repayment hearing on October 10, 2024, at the address of [REDACTED], by certified first class mail delivery.
- 11) The Defendant received notice of the scheduled hearing on October 15, 2024.
- 12) 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.
- 13) The Defendant was a recipient of SNAP benefits.
- 14) The Defendant's household consisted of himself and his two children.
- 15) 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)
- 16) The Defendant completed a redetermination for SNAP benefits on December 19, 2023. (Exhibit M-5)
- 17) The Defendant only reported his own monthly income in the amount of \$914.00 from the SSA. (Exhibit M-5)
- 18) The Defendant failed to report his children's SSA income at the redetermination.
- 19) 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. 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 January 1, 2024.

ENTERED this _____ day of November 2024.

Eric L. Phillips
State Hearing Officer