



December 10, 2024



RE: [REDACTED] v. INVESTIGATIONS AND FRAUD MANAGEMENT  
ACTION NO.: 24-BOR-3471

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,

Kristi Logan  
Certified State Hearing Officer  
Member, State Board of Review

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

cc: Birdena Porter, Investigations and Fraud Management

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

[REDACTED]

**Defendant,**

v.

**Action Number: 24-BOR-3471**

**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 [REDACTED] requested by the Movant on October 18, 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 December 3, 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 appeared *pro se*. The witnesses were placed under oath and the following documents were admitted into evidence.

**Movant's Exhibits:**

- M-1 SNAP Claim Determination Form
- M-2 SNAP Issuance History-Disbursement Screen
- M-3 SNAP Allotment Determination Screens
- M-4 Case Members History Screen
- M-5 SNAP Interim Contact Form (PRC-2) received March 5, 2024
- M-6 Foster Care Payment History
- M-7 Advance Notice of Administrative Disqualification Hearing Waiver dated October 18, 2024

- M-8 Waiver of Administrative Disqualification Hearing signed October 18, 2024
- M-9 West Virginia Income Maintenance Manual Chapter §4.3.1
- M-10 West Virginia Income Maintenance Manual Chapter §1.2.4
- M-11 West Virginia Income Maintenance Manual Chapter §11.2
- M-12 West Virginia Income Maintenance Manual Chapter §11.6
- M-13 Code of Federal Regulations – 7CFR §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 falsely reporting her household income and requested that a twelve (12) month penalty be imposed against her.
- 2) The Defendant received SNAP benefits for an eleven-person assistance group.
- 3) The Defendant submitted a SNAP interim contact form to the [REDACTED] Department of Human Services (DoHS) on March 5, 2024 (Exhibit M-5).
- 4) Under the section *Household Unearned Income*, the interim contact form listed \$6,255 as the household unearned income (Exhibit M-5).
- 5) The Defendant answered “no” to the question, *Has the source of your household’s gross unearned income changed or has the amount increased or decreased by more than \$125 since you last reported the change?* (Exhibit M-5).
- 6) SNAP benefits were recertified based on the information provided on the interim contact form (Exhibits M-2 and M-3).
- 7) The Movant verified that the Defendant had been receiving Foster Care payments for her grandchildren [REDACTED] of \$600 monthly for each child since 2018 and \$790 monthly for [REDACTED] since 2023 (Exhibit M-6).

## 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.

### **273.16(e)6 Criteria for determining an Intentional Program Violation**

The hearing authority shall base the determination of Intentional Program Violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, intentional Program violation as defined in [paragraph \(c\)](#) of this section.

**West Virginia Income Maintenance Manual §11.2.3.B** states that IPV's 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 §1.2.4** states that 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.

### **DISCUSSION**

Federal regulations define an Intentional Program Violation as intentionally making a false or misleading statement or misrepresenting, concealing or withholding facts related to the acquisition of SNAP benefits. An individual who is found to have committed an Intentional Program Violation is disqualified from participation in SNAP.

The Movant contended that the Defendant withheld information on the March 2024 interim contact form by indicating that her household’s unearned income had not increased by \$125 from the \$6,255 unearned income amount listed in her case record. The Movant argued that the Defendant received SNAP benefits from April through August 2024 for which she was not entitled to receive as the Foster Care payments received for [REDACTED] were not considered in determining the Defendant’s eligibility for SNAP.

The Defendant testified that she has never withheld the Foster Care income she received for her grandchildren from the DoHS and has reported and verified the income at numerous eligibility reviews. The Defendant adamantly denied any fraud, claiming her various case workers over the years were aware of the Foster Care income.

The Movant must prove by clear and convincing evidence that the Defendant committed, and intended to commit, an Intentional Program Violation. The Defendant provided credible testimony that she reported the Foster Care payments to DoHS case workers. Although the Defendant had a responsibility to ensure the amount of unearned income listed on the March 2024 interim contact form was accurate, there was insufficient evidence to establish that the Defendant intentionally withheld the Foster Care income to receive SNAP benefits for which she was not entitled to receive.

### **CONCLUSIONS OF LAW**

- 1) An Intentional Program Violation is defined as intentionally making a false or misleading statement or misrepresenting, concealing or withholding facts related to the acquisition of SNAP benefits.
- 2) The determination of Intentional Program Violation must be based on clear and convincing evidence which demonstrates that the recipient committed, and intended to commit, an Intentional Program Violation.
- 3) The evidence failed to establish that the Defendant intentionally withheld information regarding the Foster Care income to receive SNAP benefits for which she was not entitled to receive.

**DECISION**

It is the finding of the State Hearing Officer that the Defendant did not commit an Intentional Program Violation.

**ENTERED this 10<sup>th</sup> day of December 2024.**

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**Kristi Logan**  
**Certified State Hearing Officer**