



January 14, 2025

[REDACTED]

RE: [REDACTED] v. OIG/IFM
ACTION NO.: 24-BOR-3586

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: Jake Wegman, Esq., Assistant Attorney General

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

████████████████████,

Defendant,

v.

Action Number: 24-BOR-3586

**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 November 1, 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 12, 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 12 months.

At the hearing, the Movant appeared by Jake Wegman, Esq., Assistant Attorney General. Appearing as a witness for the Movant was Elizabeth Mullins. The Defendant was notified of the hearing but failed to appear. The witnesses were placed under oath and the following documents were admitted into evidence. The Movant’s exhibits reflect corrected labeling.

Movant’s Exhibits:

- D-1 Code of Federal Regulations excerpt
- D-2 Benefit Recovery Referral screen prints
- D-3 SNAP repayment claim documentation
Data system screen prints
Disqualification query screen prints

- D-4 Earned income verification
- D-5 Earned income verification
- D-6 Earned income verification
- D-7 SNAP application/review document, dated June 6, 2023
- D-8 Printed image – undated note
- D-9 SNAP application/review document, dated June 12, 2023
- D-10 Medicaid application/review document, dated October 23, 2023
- D-11 SNAP application/review document, dated November 22, 2023
- D-12 Printed image of SNAP application/review document, signed May 18, 2024
- D-13 Printed image – undated note
- D-14 Printed image – Medicaid / WV CHIP application/review document
Date signed: July 18, 2024
- D-15 Case comments (screen prints)
- D-16 West Virginia Income Maintenance Manual (WVIMM) excerpt
- D-17 West Virginia Income Maintenance Manual (WVIMM) excerpt
- D-18 West Virginia Income Maintenance Manual (WVIMM) excerpt
- D-19 ADH correspondence and documents

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 omitting sources of household earned income to obtain additional SNAP benefits. (Exhibit D-2)
- 2) The Movant requested that a first-offense IPV penalty be imposed against the Defendant.
- 3) The Defendant was notified of the hearing by scheduling order dated November 12, 2024.
- 4) The scheduling order was mailed to the Defendant via USPS certified delivery, with a return receipt requested.
- 5) The return receipt for delivery of the scheduling order to the Defendant was received on November 21, 2024.
- 6) The Defendant failed to appear for the hearing or provide good cause for her failure to do so.
- 7) In accordance with 7 CFR §273.16(e)(4) and the Office of Inspector General Common Chapters Manual §740.20(A), the hearing was held without the Defendant in attendance.
- 8) The Defendant has no prior IPV penalties. (Exhibit D-3)
- 9) The Movant contends that the Defendant's alleged omission resulted in excessive SNAP benefits to be issued to the Defendant's household in the amount of \$15,885, for the period from July 2023 through October 2024. (Exhibit D-3)
- 10) The Defendant was a recipient of SNAP benefits with a household size which fluctuated from four (4) to five (5) within the claim period. (Exhibit D-3)
- 11) ██████████, the Defendant's husband, was included in the Defendant's SNAP household and assistance group (AG) throughout the claim period. (Exhibit D-3)
- 12) The Movant obtained earned income verification for ██████████ from ██████████ (Exhibit D-4), ██████████ (Exhibit D-5), and ██████████ (Exhibit D-6).
- 13) The Movant obtained detailed earned income verification for ██████████ from these employers (Exhibits D-4, D-5, and D-6) from January 20, 2023, through September 13, 2024.
- 14) The Defendant signed applications or review documents for SNAP and related programs which affect SNAP eligibility on: June 6, 2023 (Exhibit D-7), June 12, 2023 (Exhibit D-9), October 23, 2023 (Exhibit D-10), November 22, 2023 (Exhibit D-11), May 18, 2024 (Exhibit D-12), and July 18, 2024 (Exhibit D-14).

- 15) The Defendant did not report the earned income for her husband (Exhibits D-4, D-5, and D-6) on these documents (Exhibits D-7, D-9, D-10, D-11, D-12, and D-14).
- 16) The Movant mailed the Defendant the Advance Notice of Administrative Disqualification Hearing Waiver form and the (Exhibit D-19) Waiver of Administrative Disqualification Hearing form (“ADH waiver”).

APPLICABLE POLICY

Code of Federal Regulations 7 CFR §273.16(c) provides:

(c) *Definition of intentional Program violation.* Intentional Program violations shall consist of having intentionally:

- (1) Made a false or misleading statement, or misrepresented, concealed or withheld facts; or
- (2) 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 EBT cards.

Code of Federal Regulations 7 CFR §273.16(b) provides, in part:

(b) *Disqualification penalties.*

(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.

...

Code of Federal Regulations 7 CFR §273.16(e) provides, in part:

(e) *Disqualification hearings.* The State agency shall conduct administrative disqualification hearings for individuals accused of intentional Program violation in accordance with the requirements outlined in this section.

...

(4) *Scheduling of hearing.* The time and place of the hearing shall be arranged so that the hearing is accessible to the household member suspected of intentional Program violation. If the household member or its representative cannot be located

or fails to appear at a hearing initiated by the State agency without good cause, the hearing shall be conducted without the household member being represented. Even though the household member is not represented, the hearing official is required to carefully consider the evidence and determine if intentional Program violation was committed based on clear and convincing evidence. If the household member is found to have committed an intentional Program violation but a hearing official later determines that the household member or representative had good cause for not appearing, the previous decision shall no longer remain valid and the State agency shall conduct a new hearing. The hearing official who originally ruled on the case may conduct the new hearing. In instances where good cause for failure to appear is based upon a showing of nonreceipt of the hearing notice as specified in paragraph (e)(3)(ii) of this section, the household member has 30 days after the date of the written notice of the hearing decision to claim good cause for failure to appear. In all other instances, the household member has 10 days from the date of the scheduled hearing to present reasons indicating a good cause for failure to appear. A hearing official must enter the good cause decision into the record.

...

West Virginia Income Maintenance Manual (WVIMM), Chapter 1, §1.2.4 provides:

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.

WVIMM, Chapter 11, §11.2.3.B provides, 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.

...

Office of Inspector General Common Chapters Manual, §740.20(A), provides:

- A. If the Defendant is given proper and timely notice via first class or refused or unreturned certified mail and fails to appear, the hearing shall be held in the Defendant's absence.

DISCUSSION

The Movant requested the Defendant be disqualified from SNAP benefit eligibility for 12 months because she committed an Intentional Program Violation (IPV) by omitting sources of household income on SNAP applications and review documents, and documents for related programs which affect SNAP eligibility factors.

State and Federal regulations define an IPV as actions which include making false or misleading statements, misrepresenting facts, and concealing or withholding information related 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 Defendant was not present for the hearing and the hearing was held in her absence. The Defendant was given proper and timely notice of the hearing and did not provide any written good cause to the Hearing Officer after the hearing was held on December 12, 2024.

The Movant alleged that \$15,885 in excessive SNAP benefits were issued to the Defendant's household due to the Defendant's omission of earned income sources between July 2023 and October 2024. The Movant contends that this omission by the Defendant constitutes an IPV. During this period, the Defendant signed multiple applications or review documents for SNAP or for related programs (which also serve as reporting documents for SNAP purposes), and did not report earned income for [REDACTED] from three employers (or possibly three locations for the same employer) on those signed documents. The duration and amount of the claim period, and the number of signed documents without mention of employment or earnings is convincing regarding the Defendant's intent. The Defendant's actions clearly meet the IPV definition.

Based on the reliable evidence and testimony at the hearing, the Movant proved by clear and convincing evidence that the Defendant committed actions that meet the definition of an IPV. The Defendant has no prior IPV's, and a first-offense IPV results in a 12-month disqualification from SNAP. The Movant's proposal to impose a 12-month IPV sanction against the Defendant is affirmed, to begin February 2025.

CONCLUSIONS OF LAW

- 1) Because the Defendant signed multiple applications or review documents for SNAP or related programs, she is responsible for the veracity of the statements therein.
- 2) Because the Defendant omitted earned income sources for a household member on those documents, her actions meet the IPV definition.
- 3) Because this IPV is the Defendant's first IPV, a 12-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 February 1, 2025.

ENTERED this _____ day of January 2025.

**Todd Thornton
State Hearing Officer**