



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of the Inspector General
Board of Review**

**Sherri A. Young, DO, MBA, FAAFP
Interim Cabinet Secretary**

**Sheila Lee
Interim Inspector General**

July 17, 2023

[REDACTED]

Re: [REDACTED] v. WV DHHR
ACTION NO.: 23-BOR-1801

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 and Human Resources. 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,

Angela D. Signore
State Hearing Officer
Member, State Board of Review

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

cc: Edgar Buster, Investigations and Fraud Management

**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BOARD OF REVIEW**

██████████,

Defendant,

v.

Action Number: 23-BOR-1801

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Movant.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision of the State Hearing Officer resulting from an Administrative Disqualification Hearing (ADH) for ██████████, requested by the Movant on May 23, 2023. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia (WV) Department of Health and Human Resources' (DHHR) Common Chapters Manual and Federal Regulations at 7 CFR § 273.16. This fair hearing was convened on June 28, 2023.

The matter before the Hearing Officer arises from a request by the Movant for a determination as to whether the Defendant has committed an Intentional Program Violation (IPV) and should therefore be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for twelve (12) months.

At the hearing, the Movant appeared by Edgar Buster, Criminal Investigator, Investigations and Fraud Management (IFM). Appearing as a witness for the Movant was ██████████. The Defendant failed to appear. All witnesses were sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 Code of Federal Regulations 7 CFR § 273.16
- M-2 Handwritten letter signed by ██████████ dated October 19, 2022
- M-3 Scanned copy of WV Electronic Benefits Transfer (SNAP EBT) card issued to ██████████
- M-4 WV PATH SNAP Application, submitted electronically May 14, 2022
- M-5 SNAP Rights and Responsibilities Form (DFA-RR-1), signed by ██████████, dated March 07, 2014
- M-6 West Virginia Income Maintenance Manual (WVIMM) §§ 11.2 through 11.2.8.H
- M-7 WV IMM §§ 11.6 through 11.6.2
- M-8 WV DHHR Advance Notice of Administrative Disqualification Hearing Waiver, dated April 06, 2023; and Waiver of Administrative Disqualification Hearing, unsigned

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 Investigation and Fraud Management (IFM) Unit of West Virginia Department of Health and Human Resources (WVDHHR) alleged an act of Intentional Program Violation (IPV) by the Defendant for trafficking SNAP benefits and is requesting that he be disqualified from participation in SNAP for a period of twelve (12) months. (Exhibits M-2, M-3, and M-8)
- 2) The Defendant was notified of the hearing by scheduling order issued on May 24, 2023, via First Class U.S. Mail. The Defendant failed to appear for the hearing or provide good cause for his failure to do so. In accordance with 7 CFR §273.16(e) (4) and West Virginia Department of Health and Human Resources' Common Chapters Manual, §740.20, the hearing was held without the Defendant in attendance. (Exhibit M-8)
- 3) The Defendant was a recipient of SNAP benefits for a one (1) person AG. (Exhibit M-2)
- 4) On March 07, 2014 and May 14, 2022, the Defendant completed SNAP applications and signed the Rights and Responsibilities (R&R) forms acknowledging his understanding that to buy, sell, trade, steal, or otherwise use SNAP benefits for monetary gain or other considerations is considered SNAP trafficking, and that the penalty for doing so is a disqualification from the program. (Exhibits M-1 and M-2)
- 5) On an unknown date, [REDACTED] paid the Defendant a cash payment of \$40 in exchange for the Defendant's SNAP EBT card. (Exhibits M-2 and M-3)
- 6) On October 19, 2022, the IFM Unit received a handwritten statement from [REDACTED] that the Defendant was selling his SNAP EBT benefits for money. (Exhibits M-2 and M-3)
- 7) The October 19, 2022 statement attested that the Defendant colluded with [REDACTED] by giving [REDACTED] his SNAP EBT card to access SNAP benefits in exchange for money. (Exhibits M-2 and M-3)
- 8) On October 19, 2022, [REDACTED] provided the Defendant's SNAP EBT card to the Movant to establish proof of his statement. (Exhibits M-2 and M-3)
- 9) The Defendant has no previous history of Intentional Program Violations (IPVs). (Exhibit M-8)

APPLICABLE POLICY

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

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 to an Intentional Program Violation (IPV).

Code of Federal Regulations, 7 CFR §273.16(b)(1)(i) provides, in part:

Individuals found to have committed an Intentional Program Violation 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 show be ineligible to participate in the Supplemental Nutrition Assistance Program for twelve months for the first intentional Program violation.

West Virginia Income Maintenance Manual (WVIMM) § 3.2.1.B.5 provides, in part:

Persons who have been found guilty for an IPV are disqualified as follows: First offense, One-year disqualification; Second offense, Two-year disqualification; and Third offense, permanent disqualification.

WV IMM § 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.

IPV claims must be established for trafficking-related offenses. Claims arising from trafficking-related offenses are the value of the trafficking benefits as determined by the individual's admission, adjudication, or documentation that forms the basis of the trafficking determination.

DISCUSSION

Federal regulations define an Intentional Program Violation (IPV) as making a false statement related to the acquisition of Supplemental Nutrition Assistance Program (SNAP) benefits. The Movant requested the Administrative Disqualification Hearing to determine whether the Defendant committed an IPV by trafficking SNAP benefits and is requesting that he be disqualified from participation in SNAP for a period of twelve (12) months. The Defendant was notified of the hearing by scheduling order issued on May 24, 2023, via First Class U.S. Mail.

The Defendant failed to appear for the hearing or provide good cause for his failure to do so. In accordance with 7 CFR §273.16(e) (4) and West Virginia Department of Health and Human Resources' Common Chapters Manual, §740.20, the hearing was held without the Defendant in attendance. The Defendant completed an application for SNAP benefits on May 14, 2022. The Defendant signed the Rights and Responsibilities (R&R) form acknowledging his understanding that to buy, sell, trade, steal, or otherwise use SNAP benefits for monetary gain or other considerations is considered SNAP trafficking, and that the penalty for doing so is a disqualification from the program. An additional R&R form signed by the Defendant on March 07, 2014, was included in the Movant's evidence.

On October 19, 2022, the IFM Unit received a handwritten statement from the Movant witness, [REDACTED], attesting that the Defendant provided [REDACTED] with his EBT card in order to access SNAP benefits in exchange for money. [REDACTED] supplied the Defendant's SNAP EBT card to the Movant to establish further proof of his statement. At the time of the hearing, [REDACTED] testified under oath to the aforementioned exchange in the dollar amount of \$40 cash. The Movant contended that the Defendant committed an IPV by trafficking SNAP benefits and is requesting that he be disqualified from participation in SNAP for a period of twelve (12) months.

The Movant established, by way of undisputed credible testimony, clear and convincing evidence the Defendant trafficked his SNAP benefits, thereby meeting the definition of an IPV. The Defendant did not appear for the hearing, and as such could not dispute facts presented by the Movant. Pursuant to regulations, individuals found to have committed an IPV through an ADH shall be ineligible to participate in SNAP for a specified time, depending on the number of offenses committed. Because the Defendant had no previous history of IPV disqualification penalties, a first-offense twelve (12) month disqualification penalty should be imposed, beginning in accordance with timelines established in federal regulations.

CONCLUSIONS OF LAW

- 1) Federal regulations define an Intentional Program Violation (IPV) as making a false or misleading statement, 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.
- 2) The Movant provided clear and convincing evidence that the Defendant trafficked his SNAP benefits by selling his SNAP EBT card for money. This act meets the definition of an IPV.
- 3) Because the action of the Defendant constitutes an IPV, the Movant must disqualify the Defendant from receipt of SNAP benefits.
- 4) Because the IPV is a first offense, the disqualification period is twelve (12) months beginning August 01, 2023.

DECISION

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program

Violation (IPV). The Defendant will be disqualified from receipt of SNAP benefits for a period of twelve (12) months, beginning August 01, 2023.

ENTERED this ____ day of July 2023.

Angela D. Signore
State Hearing Officer