



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
1400 Virginia Street  
Oak Hill, WV 25901

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

June 10, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 15-BOR-1365

Dear Mr. [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,

Kristi Logan  
State Hearing Officer  
Member, State Board of Review

Encl: Claimant's Recourse to Hearing Decision  
Form IG-BR-29

cc: Danita Bragg, [REDACTED] DHHR

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

██████████,

**Defendant,**

v.

**Action Number: 15-BOR-1365**

**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 for ██████████ requested by the Movant on February 24, 2015. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual and Federal Regulations at 7 CFR §273.16. The hearing was convened on May 27, 2015.

The matter before the Hearing Officer arises from a request by the Department 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 12 months.

At the hearing, the Department appeared by Danita Bragg, Criminal Investigator. The Department's representative was sworn and the following documents were admitted into evidence.

**Movant's Exhibits:**

- M-1 Case Members History Screen Print
- M-2 Facebook ([www.facebook.com](http://www.facebook.com)) Screen Prints for the Defendant
- M-3 Application for Benefits dated July 10, 2014
- M-4 WV Income Maintenance Manual §1.4 (excerpt)
- M-5 WV Income Maintenance Manual §20.2 (excerpt)
- M-6 WV Income Maintenance Manual §20.6A
- M-7 Code of Federal Regulations – 7 CFR §273.1
- M-8 Code of Federal Regulations – 7 CFR §273.16

M-9 Code of Federal Regulations – 7 CFR §271.2  
M-10 SNAP Allotment Determination Screen Prints

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 Department alleged that the Defendant committed an Intentional Program Violation (IPV) by trafficking SNAP benefits, and requested that a SNAP penalty of twelve (12) months be imposed against him.
- 2) The Defendant was notified of the hearing by scheduling order sent on April 7, 2015. The Defendant failed to appear for the hearing or provide good cause for his failure to do so. In accordance to 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.
- 3) The Department received a complaint that the Defendant was selling his SNAP benefits on the social media website Facebook.
- 4) The Department provided a screen print of the Defendant's Facebook page (M-2) for December 23, 2014, on which the Defendant posted that he was selling \$40 in SNAP benefits for \$20 cash.
- 5) The Defendant used the alias "[REDACTED]" on the Facebook site; however a review of the Defendant's posts on his Facebook page confirmed the Defendant's identity.

### **APPLICABLE POLICY**

Code of Federal Regulations 7 CFR §273.16, establishes that an individual making a false or misleading statement, or misrepresenting, concealing or withholding facts, violating the Food Stamp Program, 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).

West Virginia Income Maintenance Manual §20.C.2 defines an IPV and establishes that IPV's include: making false or misleading statements, misrepresentations, 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. Once an IPV has been established, a disqualification period must

be imposed on the Assistance Group (AG) member who committed the violation. Furthermore, 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.

West Virginia Income Maintenance Manual §9.1 sets forth the penalties for individuals found guilty of an IPV as follows: First Offense, twelve (12) month disqualification; Second Offense, twenty-four (24) month disqualification; Third Offense, permanent disqualification.

### **DISCUSSION**

Through clear and convincing evidence the Department established that the Defendant trafficked his SNAP benefits by attempting to sell them for monetary gain. The Defendant failed to appear to refute the evidence presented by the Department.

### **CONCLUSIONS OF LAW**

The Defendant trafficked his SNAP benefits for monetary gain and therefore has committed an Intentional Program Violation. The Defendant is subject to a twelve (12) month SNAP disqualification.

### **DECISION**

It is the finding of the State Hearing Officer that the Defendant has committed an Intentional Program Violation and will be disqualified from participation in the Supplemental Nutrition Assistance Program for a period of twelve (12) months, effective July 2015.

**ENTERED this 10<sup>th</sup> day of June 2015**

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**Kristi Logan  
State Hearing Officer**