



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
4190 Washington Street, West  
Charleston, West Virginia 25313

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

May 30, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 15-BOR-1813

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,

Donna L. Toler  
State Hearing Officer  
Member, State Board of Review

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

cc: Christina Saunders, Front End Fraud Unit Investigator

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

██████████,

**Defendant,**

v.

**Action Number: 15-BOR-1813**

**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 April 15, 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 21, 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 thus be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Department appeared by Christina Saunders, Front End Fraud Unit Investigator. The Defendant, ██████████, failed to appear. The Department's representative was sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- M-1 Electronic mail correspondence from ██████████ to Kathy Lawson and Nancy Exline, dated December 9, 2014
- M-2 Code of Federal Regulations 7 CFR §273.16
- M-3 Internet webpage [www.facebook.com](http://www.facebook.com) computer screen print, print date March 27, 2015
- M-4 EBT Administration System/Transaction History, dated November 9, 2014 through May 18, 2015

- M-5A West Virginia Department of Health and Human Resources Supplemental Nutrition Assistance Program (SNAP) Application
- M-5B Combined Application and Review Form - Financial, Medical and Supplemental Nutrition Assistance Program and Accompanying Rights and Responsibilities
- M-6 Electronic Disqualified Recipient System Query Results, dated March 31, 2015
- M-7 Advance Notice of Administrative Disqualification Hearing Waiver dated March 31, 2015
- M-8 West Virginia Income Maintenance Manual §20.2.C.2
- M-9 West Virginia Income Maintenance Manual §20.2.E.3
- M-10 West Virginia Income Maintenance Manual §20.2.F.2(a)

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 Supplemental Nutrition Assistance Program (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 mailed on April 17, 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 Defendant is a recipient of SNAP benefits.
- 4) On February 7, 2014, the Defendant signed the Rights and Responsibilities 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 would result in disqualification from the SNAP. (Exhibit M-5B)
- 5) On December 8, 2014, the Defendant posted on a social media site that his SNAP benefits were for sale. (Exhibit M-3)
- 6) On December 8, 2014, at 11:36 a.m., the Defendant posted on a social media site that his SNAP benefits had been sold for \$150. (Exhibit M-3)

## **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 selling them for monetary gain. The Defendant failed to appear to refute the evidence presented by the Department.

## **CONCLUSION 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 \_\_\_\_\_ day of May 2015.**

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**Donna L. Toler  
State Hearing Officer**