



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

July 21, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 15-BOR-2024

Dear Ms. [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: Recourse to Hearing Decision  
Form IG-BR-29

cc: Cassie Burns, [REDACTED] DHHR

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

████████████████████,

**Defendant,**

v.

**Action Number: 15-BOR-2024**

**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 May 8, 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 July 9, 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 thus should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Department appeared by Cassie Burns, Repayment Investigator. The Department's representative was sworn and the following documents were admitted into evidence.

**Movant's Exhibits:**

- M-1 Code of Federal Regulations – 7 CFR §273.16
- M-2 SNAP Claim Determination Form and SNAP Allotment Determination Screen Print
- M-3 Statement from ██████████ dated May 22, 2014
- M-4 Statement from ██████████ dated May 23, 2014
- M-5 Copy of the Defendant's Electronic Benefit Transfer (EBT) Card
- M-6 Statement from ██████████ dated July 1, 2014
- M-7 Statement from ██████████ dated May 22, 2014

M-8 Rights and Responsibilities signed January 6, 2014

M-9 Advance Notice of Administrative Disqualification Hearing Waiver dated April 16, 2015

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 her SNAP benefits, and requested that a SNAP penalty of twelve (12) months be imposed against her.
- 2) The Defendant was notified of the hearing by scheduling order sent on June 9, 2015. The Defendant failed to appear for the hearing or provide good cause for her 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 sold her EBT card for cash. An investigation was conducted regarding this allegation.
- 4) The Department obtained a statement (M-3) from [REDACTED] attesting that she made an agreement in May 2014 with [REDACTED], the Defendant's cohabiter, to purchase the Defendant's EBT card for \$105.
- 5) A statement (M-4) from [REDACTED], Ms. [REDACTED] cohabiter, was received alleging that Ms. [REDACTED] borrowed \$105 from him to purchase the Defendant's EBT card. Mr. [REDACTED] met [REDACTED] and the Defendant wherein he gave them \$105 in cash for the Defendant's EBT card (M-5).
- 6) [REDACTED] was with Mr. [REDACTED] when the purchase for the Defendant's EBT card was made. Mr. [REDACTED] claimed (M-6) Mr. [REDACTED] gave [REDACTED] and the Defendant cash for her EBT card.

### **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 her SNAP benefits by selling her EBT card for cash. The Defendant failed to appear to refute the evidence presented by the Department.

### **CONCLUSIONS OF LAW**

The Defendant trafficked her 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 September 2015.

**ENTERED this 21<sup>st</sup> day of July 2015**

---

**Kristi Logan  
State Hearing Officer**