



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
2699 Park Avenue, Suite 100  
Huntington, WV 25704

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

November 13, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 15-BOR-2733

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,

Todd Thornton  
State Hearing Officer  
Member, State Board of Review

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

cc: Tammie Drumheller, Investigations and Fraud Management

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

██████████,

**Defendant,**

v.

**Action Number: 15-BOR-2733**

**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 August 5, 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 initially scheduled for October 27, 2015, but the Defendant had good cause for missing this appointment. The hearing was rescheduled and convened on November 12, 2015.

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 and thus should be disqualified from the Supplemental Nutrition Assistance Program (SNAP) for 12 months.

At the hearing, the Movant appeared by Tammie Drumheller. The Defendant was notified of the hearing and failed to appear, resulting in the hearing being held in the Defendant's absence. All witnesses were sworn and the following documents were admitted into evidence.

**Movant's Exhibits:**

- |      |  |
|------|--|
| D-1  | Copy of the Defendant's Electronic Benefits Transfer (EBT) card  |
| D-2  | Receipt of purchases made with the Defendant's EBT card          |
| D-3  | Anonymous undated note   |
| D-4  | Letter to the Defendant dated July 21, 2015                      |
| D-5  | Advance Notice of Administrative Disqualification Hearing Waiver |
| D-6  | Waiver of Administrative Disqualification Hearing                |
| D-7  | Repayment agreement form   |
| D-8  | Hearing summary  |
| D-9  | West Virginia Income Maintenance Manual, Chapter 20.2            |
| D-10 | Code of Federal Regulations, 7 CFR §273.16                       |

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 Defendant received an overissuance of SNAP benefits in May 2015, totaling \$194.
- 2) The overissuance was due to improper use of SNAP benefits by the Defendant.
- 3) The Movant received information from an anonymous informant by mail: the Defendant's EBT card (Exhibit D-1), a receipt showing purchases made with that card (Exhibit D-2) and a note (Exhibit D-3) indicating the Defendant was selling her SNAP benefits.
- 4) The note provided the secured pin number required to access SNAP benefits from the Defendant's EBT card (Exhibit D-3).
- 5) The Movant contended the action of the Defendant to provide or transfer SNAP benefits to another individual is outside the intended program purpose and constitutes an Intentional Program Violation (IPV). The Movant requested this hearing for the purpose of making that determination.
- 6) The Defendant has no prior IPV offenses.

### **APPLICABLE POLICY**

The Code of Federal Regulations, 7 CFR §273.16(c) defines an IPV as having “committed any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system (access device).”

The West Virginia Income Maintenance Manual, Chapter 9.1.A.2.h, indicates a first offense IPV results in a one-year disqualification from SNAP.

### **DISCUSSION**

The Defendant did not appear for the hearing, and as such could not dispute facts presented by the Movant.

The facts presented by the Movant clearly show an action that meets the codified IPV definition. An anonymous individual mailed the Defendant's EBT card in to the Movant, along with

documentation of the purchases made and the pin number used to access benefits not intended for that individual. SNAP benefits provided via EBT are secured with a pin number known only to the intended recipient. It is reasonable to conclude the only way another person could access these benefits is if the card and pin number were given to them – if a card were merely lost or stolen, for example, benefits could not be accessed because the pin number would be required as well. Granting an unauthorized person access to SNAP benefits in this manner meets the IPV definition.

### **CONCLUSION OF LAW**

Because the actions of the Defendant constitute an IPV, the Movant must disqualify the Defendant from receipt of SNAP benefits, and because the IPV is a first offense the disqualification period is one year.

### **DECISION**

The proposed IPV disqualification of the Defendant is upheld. The Defendant will be disqualified from receipt of SNAP benefits for a period of one year, beginning December 1, 2015.

**ENTERED this \_\_\_\_ Day of November 2015.**

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**Todd Thornton**  
**State Hearing Officer**