



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
1900 Kanawha Boulevard, East
Room 817-B
Charleston, West Virginia 25305
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Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

March 23, 2016

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-1303

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,

Donna L. Toler
Deputy Director
State Board of Review

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

cc: Danielle Jarrett, Repayment Investigator

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

████████████████████,

Defendant,

v.

Action Number: 16-BOR-1303

**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 19, 2016. 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 March 23, 2016.

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 Danielle Jarrett, Repayment Investigator. Repayment Investigator Natasha Jemerison was present for the hearing as an observant and provided no testimony. The Defendant, ██████████, failed to appear. The Department's representative was sworn and the following documents were admitted into evidence.

Department's Exhibits:

- M-1 Code of Federal Regulations 7 CFR §273.16
- M-2 EBT Administration System/Card History, dated October 31, 2013 through February 24, 2016
- M-3 EBT Administration System/Transaction History, dated May 4, 2015 through February 22, 2016
- M-4 Food Stamp Claim Determination Form and supporting documentation
- M-5 SNAP Trafficking Investigation Report, dated March 10, 2016

- M-6 EBT Administration System/Transaction Detail, dated December 28, 2015
- M-7 EBT Administration System/Transaction Detail, dated January 4, 2016
- M-8 Combined Application and Review Form - Financial, Medical and Supplemental Nutrition Assistance Program (SNAP) Application and accompanying Rights and Responsibilities, dated October 8, 2013

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 her.
- 2) The Defendant was notified of the hearing by scheduling order mailed on February 23, 2016. 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 Defendant is a recipient of SNAP benefits.
- 4) The Defendant has been receiving SNAP benefits since October 2013, and signed the Rights and Responsibilities acknowledging her 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. (Exhibits M-2, M-3, M-4 and M-8)
- 5) The Defendant reported a stolen Electronic Benefit Transfer (EBT) card on multiple occasions - seven (7) times since May 2015, and changed her EBT Personal Identification Number (PIN) four (4) times during the same time period. The number of reported lost EBT cards and changes of PIN number prompted an investigation of the Defendant. (Exhibits M-2 and M-3)
- 6) The Defendant resided in the household of [REDACTED] from December 2015 through January 2016. (Exhibit M-5)
- 7) In lieu of rent, the Defendant provided Ms. [REDACTED] her Personal Identification Number (PIN) and SNAP Electronic Benefit Transfer (EBT) card in exchange for rent. (Exhibits M-5, M-6 and M-7)
- 8) Surveillance imagery confirms that Ms. [REDACTED] used the Defendant's EBT card to make food purchases on two (2) occasions, December 28, 2015 and January 4, 2016. Purchases

totaled \$319.50 of the Defendant's SNAP benefits. The Defendant was not present at the time of the purchases made by Ms. [REDACTED] (Exhibits M-6 and M-7)

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 trading them for rent. The Defendant failed to appear to refute the evidence presented by the Department.

CONCLUSION OF LAW

Because the action of the Defendant constitutes an IPV, the Movant must disqualify the Defendant from receipt of SNAP benefits. The Defendant has committed a first-offense Intentional Program Violation and 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 May 1, 2016.

ENTERED this _____ day of March 2016.

**Donna L. Toler
Deputy Director
Board of Review**