



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

March 11, 2016

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 15-BOR-3530

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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

cc: Cassandra Burns, Department Representative

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

██████████,

Defendant,

v.

Action Number: 15-BOR-3530

**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 November 23, 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 February 9, 2016.

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 Cassandra Burns. Observing the hearing was Juna Woodall. The Defendant was notified of the hearing but 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 Code of Federal Regulations, 7 CFR §273.16
- D-2 Email chain and Defendant's SNAP usage history in ██████████ state
- D-3 Defendant's SNAP usage history in West Virginia
- D-4 Screen prints of the Defendant's SNAP transaction details with corresponding printed, time-stamped photographs from the retailer
- D-5 Statement from ██████████, dated October 27, 2015
- D-6 SNAP application/review documents, signed September 11, 2013

D-7	WVIMM, §20.2
D-8	SNAP Claim Determination form and supporting documentation
D-9	Administrative Disqualification Hearing documents
D-10	Screen print of a photograph of the Defendant

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 from January 2015 to August 2015 totaling \$1552 (Exhibit D-8).
- 2) The overissuance was based on the Defendant's improper use of SNAP benefits, specifically by transferring his SNAP benefits access device and pin number to a person unauthorized to use those benefits (Exhibit D-5).
- 3) The Movant contended the Defendant's improper use of SNAP benefits constitutes an Intentional Program Violation (IPV), and requested this hearing for the purpose of making that determination.
- 4) 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...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 testimony and evidence presented by the Movant clearly show an action that meets the codified IPV definition. The Movant provides SNAP benefits to eligible households via an access device known as an Electronic Benefit Transfer (EBT) card. By transferring his EBT card (and the pin number necessary to access the SNAP benefits on the card) to an individual

unauthorized to use those benefits, the Defendant violated SNAP regulations and sufficiently demonstrated intent.

CONCLUSION OF LAW

Because the action of the Defendant constitutes 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 April 1, 2016.

ENTERED this ____ Day of March 2016.

**Todd Thornton
State Hearing Officer**