



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
1400 Virginia Street  
Oak Hill, WV 25901

Jim Justice  
Governor

Bill J. Crouch  
Cabinet Secretary

June 7, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 17-BOR-1687

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

cc: Danita Bragg, [REDACTED] County DHHR

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

██████████,

**Defendant,**

v.

**Action Number: 17-BOR-1687**

**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 18, 2017. 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 23, 2017.

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

At the hearing, the Movant appeared by Danita Bragg, Criminal Investigator. The Defendant failed to appear for the hearing. The Movant's representative was sworn and the following evidence admitted to the record.

**Movant's Exhibits:**

- M-1 Code of Federal Regulations – 7 CFR §273.16
- M-2 Unites States Department of Agriculture (USDA) Food and Nutrition Service (FNS) Survey and Photographs, Notice of Disqualification dated February 17, 2016 and Electronic Benefit Transactions for ██████████
- M-3 Electronic Benefit Transaction History for Defendant from January 2014-May 2016
- M-4 Statement from ██████████ dated March 22, 2017
- M-5 Statement from ██████████ dated March 22, 2017

- M-6 Screen Print of Local SNAP Retailers retrieved from [www.fns.usda.gov](http://www.fns.usda.gov)
- M-7 SNAP Review Form dated July 31, 2014
- M-8 West Virginia Income Maintenance Manual §20.2
- M-9 Advance Notice of Administrative Disqualification Hearing Waiver dated April 10, 2017

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 Movant alleged that the Defendant committed an Intentional Program Violation 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 by certified mail on April 20, 2017. The scheduling order was accepted and signed for on May 12, 2017, yet 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) [REDACTED] is a rural, 1,800 square-foot convenience store which carries a limited amount of fresh meats, dairy items, breads, snacks, frozen foods, and various sundries. [REDACTED] did not provide shopping carts or baskets for customer use, and photographs taken of the store's inventory showed some empty shelving (Exhibit M-2).
- 4) The Movant alleged that the Defendant was trafficking her SNAP benefits with the store, either purchasing non-food items or "running a tab" at the store, and paying off this account with her SNAP benefits.
- 5) The Defendant had numerous transactions with [REDACTED] on the same day within a short period of time, as many as five (5) transactions in one day. These same-day transactions always occurred the date the Defendant's SNAP benefits were deposited into her EBT account. The Defendant made purchases at neighboring grocery stores with her EBT card in between the multiple same-day transactions with [REDACTED] (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).

Code of Federal Regulations 7 CFR §271.2 defines trafficking as the buying, selling, stealing, or otherwise effecting an exchange of SNAP benefits issued and accessed via EBT cards, card numbers and personal identification numbers, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others or acting alone.

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**

Federal regulations define trafficking as the exchange of SNAP benefits accessed through an EBT card for cash or consideration other than eligible food. An Intentional Program Violation occurs when an individual is found to have trafficked his or her SNAP benefits.

The pattern of the Defendant's multiple same-day transactions with [REDACTED] were indicative of trafficking as these transactions could not be explained as forgetting an item, and returning to make another purchase. Additionally, the Defendant would visit neighboring grocery stores within the times she conducted business with [REDACTED]. Each month, the Defendant had multiple same-day transactions with [REDACTED] on the date her SNAP benefits were deposited onto her EBT card, suggesting that the Defendant was paying for items previously purchased on credit at the store with her SNAP benefits.

The Defendant did not appear for the hearing to dispute the allegations of trafficking.

The Defendant is found to have trafficked her SNAP benefits with [REDACTED].

### **CONCLUSIONS OF LAW**

- 1) An Intentional Program Violation occurs when an individual is found to have trafficked his or her SNAP benefits.
- 2) The Defendant trafficked her SNAP benefits with [REDACTED].
- 3) A twelve-month SNAP penalty will be applied to the Defendant as this is her first offense.

### **DECISION**

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation. The Defendant will be disqualified from participation in the Supplemental Nutrition Assistance Program for twelve (12) months, effective July 1, 2017.

**ENTERED this 7<sup>th</sup> day of June 2017**

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**Kristi Logan  
State Hearing Officer**