



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL

Jim Justice  
Governor

BOARD OF REVIEW  
1400 Virginia Street  
Oak Hill, WV 25901

Bill J. Crouch  
Cabinet Secretary

September 13, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 17-BOR-2173

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,

Kristi Logan  
State Hearing Officer  
Member, State Board of Review

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

cc: Christine Allen, [REDACTED] County DHHR

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

██████████,

**Defendant,**

v.

**Action Number: 17-BOR-2173**

**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 July 26, 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 August 29, 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 24 months.

At the hearing, the Movant appeared by Christine Allen, Repayment Investigator. The Defendant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

**Movant's Exhibits:**

- M-1       Hearing Summary
- M-2       SNAP Claim Determination Form
- M-3       SNAP Issuance History-Disbursement Screen Print
- M-4       SNAP Allotment Determination Screen Prints
- M-5       Case Members History Screen Print
- M-6       Case Comments from July 2016 through March 2017
- M-7       Application for Benefits signed October 14, 2016
- M-8       Rights and Responsibilities Form signed October 14, 2016
- M-9       ADAPT Detailed Case Data Screen Print
- M-10      ██████████ SNAP Payment History Summary

- M-11 Electronic Benefit Transfer Transaction (EBT) History from October 2016 through March 2017
- M-12 EBT Transaction Detail Screen Prints
- M-13 Benefit Recovery Referral Screen Print
- M-14 Suspect Interview Letter dated June 27, 2017
- M-15 Electronic Disqualified Recipient System Screen Print
- M-16 Decision of State Hearing Officer dated November 18, 2010
- M-17 Advance Notice of Administrative Disqualification Hearing Waiver dated July 14, 2017
- M-18 Waiver of Administrative Disqualification Hearing signed July 18, 2017
- M-19 West Virginia Income Maintenance Manual §1.2(E)
- M-20 West Virginia Income Maintenance Manual §8.6
- M-21 West Virginia Income Maintenance Manual §20
- M-22 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 Movant alleged that the Defendant committed an Intentional Program Violation by receiving SNAP benefits in West Virginia and [REDACTED] simultaneously and requested that a SNAP penalty of 24 months be imposed against him.
- 2) An application for SNAP benefits was submitted to the Respondent on October 20, 2016.
- 3) The application was signed by [REDACTED], the Defendant's wife, and attested that the household was not receiving benefits in another state (Exhibit M-7).
- 4) The Defendant signed the Rights and Responsibilities Form submitted with the application (Exhibit M-8).
- 5) A phone interview was conducted with Ms. [REDACTED] on November 4, 2016, and SNAP benefits for the household were approved (Exhibit M-6).
- 6) In May 2017, the Movant was notified by an investigator in [REDACTED] that the Defendant's household received SNAP benefits in [REDACTED] while receiving SNAP in West Virginia.
- 7) The Movant obtained verification that the Defendant, his wife, and their two children received SNAP benefits in [REDACTED] from September 2016 through February 2017 (Exhibits M-9 and M-10).

- 8) The EBT transaction history for the Defendant documented that SNAP benefits were spent from both states from November 2016 through February 2017 (Exhibits M-11 and M-12).
- 9) The Movant contended that the Defendant made a false statement on the October 2016 application by denying the receipt of SNAP benefits in another state.
- 10) The result of the false statement was the approval of \$1,314 in SNAP benefits issued from October 2016 through February 2017, the period in which the Defendant's household received benefits in [REDACTED]

### **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 §20.2(C) 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.

West Virginia Income Maintenance Manual §8.6 states that an individual may not receive SNAP benefits concurrently in more than one state.

### **DISCUSSION**

Federal regulations define an Intentional Program Violation as making a false or misleading statement, or misrepresenting, concealing or withholding facts related to the acquisition of SNAP benefits.

The Defendant's household were active SNAP recipients in [REDACTED] when the October 2016 application for SNAP benefits was made.

The Defendant testified that he and his family moved back to West Virginia in October 2016, and he was unaware that the [REDACTED] benefits had not been closed. The Defendant purported that his wife forged his signature when applying for West Virginia benefits, and blamed any fraudulent activity on her.

The October 2016 SNAP application did not contain the Defendant's signature, and he did not participate in the telephone interview on November 4, 2016. The Defendant did not make a false statement to the Movant regarding the receipt of SNAP benefits simultaneously in [REDACTED] and West Virginia.

The Defendant did not commit an Intentional Program Violation.

### **CONCLUSIONS OF LAW**

- 1) An Intentional Program Violation occurs when an individual makes a false or misleading statement, or misrepresents, conceals or withholds facts related to the acquisition of SNAP benefits.
- 2) The Defendant did not make a false statement regarding the receipt of SNAP benefits in another state.
- 3) The Movant failed to prove by clear and convincing evidence that the Defendant committed an Intentional Program Violation.

### **DECISION**

It is the finding of the State Hearing Officer that an Intentional Program Violation did not occur.

**ENTERED this 13<sup>th</sup> day of September 2017**

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**Kristi Logan  
State Hearing Officer**