



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

Bill J. Crouch
Cabinet Secretary

BOARD OF REVIEW
Raleigh District DHHR
407 Neville Street
Beckley, WV 25801

M. Katherine Lawson
Inspector General

February 13, 2018



RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-2954

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: Tammi Cooley, [REDACTED] County DHHR

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 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 mailed on December 12, 2017. 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 applied for SNAP benefits on February 21, 2017. She signed the rights and responsibilities portion of the application acknowledging that her SNAP benefits were for use by her or on her behalf only (Exhibit M-6).
- 4) On July 15, 2017, the Defendant's Electronic Benefit Transfer (EBT) card was used by [REDACTED] at a [REDACTED] in [REDACTED] (Exhibit M-4).
- 5) The Movant provided surveillance footage of a male, identified as [REDACTED] by Deputy [REDACTED] of the [REDACTED] Sheriff's Department, making a purchase at the [REDACTED] at 3:58 a.m., in the amount of \$4.98 (Exhibit M-5).
- 6) The EBT transaction history for the Defendant confirms that the Defendant's EBT card was used to make the July 15, 2017, purchase at the [REDACTED] in [REDACTED] by [REDACTED] (Exhibit M-3).
- 7) The Defendant is the only member of her SNAP assistance group, and has not assigned an authorized representative for her SNAP benefits.

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 person 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 §11.2.3.B states that IPV's include making false or misleading statements, misrepresenting facts, 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. The client(s) who is found to have committed an IPV is ineligible to participate in the program for a specified time, depending on the number of offenses committed.

West Virginia Income Maintenance Manual §3.2.1.B.5 states that persons who have been found guilty of an IPV are disqualified as follows: First offense, One year disqualification; Second offense, Two year disqualification; and 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 Defendant allowed an individual, who was not a member of her SNAP assistance group, have unauthorized access to her SNAP benefits to make a purchase on July 15, 2017, using her EBT card. The Movant provided clear and convincing evidence that the purchase made using the Defendant's EBT card on July 15, 2017, was not the Defendant, and was identified by law enforcement as [REDACTED].

The Defendant's actions meet the definition of trafficking, and she is therefore found to have committed an Intentional Program Violation.

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 by allowing an individual make purchases with her EBT card.
- 3) The penalty for a first offense Intentional Program Violation is exclusion from participation in SNAP for 12 months.

DECISION

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation. As this is the Defendant's first offense, he will be excluded from participation in SNAP for 12 months, effective March 2018.

ENTERED this 13th day of February 2018

Kristi Logan
State Hearing Officer