



**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**

**Jolynn Marra
Interim Inspector General**

September 24, 2019

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 19-BOR-2154

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: Anisha Eye, [REDACTED] County DHHR

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

██████████,

Defendant,

v.

Action Number: 19-BOR-2154

**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 August 6, 2019. 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 September 10, 2019.

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

At the hearing, the Movant appeared by Anisha Eye, Repayment Investigator. The Defendant failed to appear. The witness was sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 Hearing Summary
- M-2 Electronic Benefit Transfer (EBT) Transaction History from April 2019 – July 2019
- M-3 Screen Print from www.arre.st.WV.com
- M-4 Rights and Responsibilities Form dated August 15, 2018
- M-5 Waiver of Administrative Disqualification Hearing (unsigned copy)
- M-6 Advance Notice of Administrative Disqualification Hearing Waiver dated July 26, 2019
- M-7 West Virginia Income Maintenance Manual §11.2.2
- M-8 Code of Federal Regulations – 7 CFR §273.16
- M-9 Case Comments from March 2019 – July 2019
- M-10 EBT Cardholder Maintenance Screen Print

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 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 August 6, 2019. 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 was a recipient of SNAP benefits.
- 4) The Defendant was incarcerated at the Central Regional Jail in West Virginia from April 18, 2019 through June 25, 2019 (M-3).
- 5) During the Defendant's incarceration, twenty-three (23) transactions were made using her EBT card (M-2).
- 6) The Defendant does not have an authorized EBT cardholder (M-10).
- 7) On August 15, 2018, the Defendant signed the Rights and Responsibilities form acknowledging that SNAP benefits were only to be used by or on behalf of her assistance group to purchase food or seeds (Exhibit M-4).

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 §274.7 states SNAP benefits may be used only by the household, or other persons the household selects, to purchase eligible food for the household.

West Virginia Income Maintenance Manual §1.4.19.C.2 states the SNAP assistance group may designate an additional individual(s) as an authorized cardholder for EBT. The authorized cardholder has his own card and PIN and accesses the EBT account for the specified benefit(s) without restriction. For this reason, the choice of an authorized cardholder and its importance must

be stressed with the applicant or recipient. The authorized cardholder is designated, changed, or removed in the eligibility system.

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 stipulate 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. Federal regulations further state that SNAP benefits may be only be used by the household, or a person the household selects, to purchase food for the household.

The Defendant's SNAP benefits were accessed through her EBT card by another person, using her personal identification number during her incarceration. The Defendant violated federal and state regulations by allowing a person, who was not a member of her household, use her EBT card. The Defendant's actions meet the definition of an Intentional Program Violation.

CONCLUSIONS OF LAW

- 1) Federal regulations prohibit a recipient from allowing a person who is not a member of the household access SNAP benefits via an EBT card that was not intended for the household.
- 2) The Defendant does not have an authorized EBT cardholder.
- 3) The Defendant's SNAP benefits were used during her incarceration.
- 4) The Defendant violated federal and state regulations in giving another person access to her SNAP benefits using her EBT card.

- 5) The Defendant's actions meet the definition of an Intentional Program Violation.

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 twelve months, effective November 1, 2019.

ENTERED this 24th day of September 2019.

**Kristi Logan
State Hearing Officer**