



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of the Inspector General
Board of Review**

**Sherri A. Young, DO, MBA, FAAFP
Interim Cabinet Secretary**

**Christopher G. Nelson
Interim Inspector General**

November 30, 2023

[REDACTED]

Re: [REDACTED] v. WV DHHR
ACTION NO.: 23-BOR-3069

Dear [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,

Angela D. Signore
State Hearing Officer
Member, State Board of Review

Encl: Recourse to Hearing Decision
Form IG-BR-29

cc: Birdena Porter, Investigations and Fraud Management Department

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

██████████,

Defendant,

v.

Action Number: 23-BOR-3069

**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 (ADH) for ██████████, requested by the Movant on October 03, 2023. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia (WV) Department of Health and Human Resources' (DHHR) Common Chapters Manual and Federal Regulations at 7 CFR § 273.16. This fair hearing was convened on November 01, 2023.

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

At the hearing, the Movant appeared by Birdena Porter, Investigator, Investigations and Fraud Management (IFM). The Defendant failed to appear. All witnesses were sworn and the following documents were admitted into evidence.

Movant's Exhibits:

- M-1 ADH Hearing Summary Completed by Birdena Porter, dated November 08, 2023
- M-2 Food Stamp Claim Determination, dated November 2022 through June 2023
- M-3 WV PATH eligibility system printout of SNAP Issuance History, dated November 2022 through June 2023
- M-4 WV PATH eligibility system printout of Food Stamp Allotment Determination(s)
- M-5 WV PATH eligibility system printout of Household Case Members History, dated November 08, 2023
- M-6 SNAP Review Form, dated December 12, 2022
- M-7 Employment Wage Data, Wage History, and Payroll Printout for ██████████
██████████, completed by ██████████, dated September 18, 2022
- M-8 WV DHHR Advance Notice of Administrative Disqualification Hearing Waiver, dated September 22, 2023

- M-9 Waiver of Administrative Disqualification Hearing, unsigned
- M-10 West Virginia Income Maintenance Manual (WVIMM) §§ 1.2.3.F.2 through 1.2.4
- M-11 WVIMM §§ 11.1 through 11.2.1
- M-12 WVIMM §§ 11.6.1
- M-13 Code of Federal Regulations 7 CFR § 273.16

Defendant's Exhibits:

NONE

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 Investigation and Fraud Management (IFM) Unit of West Virginia Department of Health and Human Resources (WVDHHR) alleged an act of Intentional Program Violation (IPV) by the Defendant for withholding information regarding household income in her Assistance Group (AG) resulting in an over-issuance of SNAP benefits from November 2022 through June 2023, and is requesting that she be disqualified from participation in SNAP, for a period of twelve (12) months. (Exhibits M-1 through M-2, and M-8 through M-9)
- 2) The Defendant was notified of the hearing by scheduling order issued on October 17, 2023, via First Class U.S. Mail. The Defendant failed to appear for the hearing or provide good cause for her failure to do so. In accordance with 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. (Exhibits M-13 and M-14)
- 3) The Defendant was a recipient of SNAP benefits for a four (4) person AG during the months of November and December 2022, and March 2023 through June 2023. (Exhibit M-2)
- 4) The Defendant was a recipient of SNAP benefits for a five (5) person AG during the months of January and February 2023. (Exhibit M-2)
- 5) On December 15, 2022, the Defendant completed a SNAP review and reported a total household earned income of \$1819.70. (Exhibit M-6)
- 6) The Defendant reported a total household unearned income of \$600 on her December 15, 2022 SNAP Review. (Exhibit M-6)
- 7) The Defendant answered "No" to SNAP review question number four (4): "Has your household's gross earned income (including earnings from self-employment) increased or decreased by more than \$125 from the amount above?" (Exhibit M-6)

- 8) The Defendant answered “No” to SNAP review question number four (4): “Has anyone had a change in earnings (including earnings from self-employment) because they changed, started or stopped a job?” (Exhibit M-6)
- 9) The Defendant signed the December 15, 2022 review form acknowledging that the information contained was true and correct to the best of her knowledge. (Exhibit M-6)
- 10) The Defendant's December 15, 2022 signature acknowledged she understood that if she intentionally provides false information or withholds information, she may be disqualified from receiving SNAP benefits for a penalty period of twelve months for the first-offense. (Exhibit M-3)
- 11) On August 03, 2023, the IFM Unit received a referral alleging that a member of the Defendant’s AG, [REDACTED], has been employed with and receiving wages from [REDACTED] (Exhibit M-7)
- 12) On September 18, 2023, the Movant confirmed with [REDACTED], Payroll Coordinator for [REDACTED], that [REDACTED] has been employed with and receiving wages from [REDACTED] since September 12, 2022. (Exhibit M-7)
- 13) The Defendant has no previous history of Intentional Program Violations (IPVs). (Exhibits M-8 and M-9)

APPLICABLE POLICY

Code of Federal Regulations (CFR) § 273.16 provides, in part:

An individual making a false or misleading statement, or misrepresenting, concealing, or withholding facts, violating the Food Stamp Program (SNAP), 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 to an Intentional Program Violation (IPV).

Code of Federal Regulations, 7 CFR §273.16(b)(1)(i) provides, in part:

Individuals found to have committed an Intentional Program Violation through an Administrative Disqualification Hearing or by a Federal, State, or local court, or who have signed either a waiver of right to an Administrative Disqualification Hearing or a disqualification consent agreement in cases referred for prosecution show be ineligible to participate in the Supplemental Nutrition Assistance Program for twelve months for the first intentional Program violation.

West Virginia Income Maintenance Manual (WVIMM) § § 1.2.4 Client Responsibility provides, in part:

The client's responsibility is to provide complete and accurate information about his

circumstances so that the Worker is able to make a correct determination about his eligibility.

WV IMM § 3.2.1.B.5 provides, in part:

Persons who have been found guilty for an IPV are disqualified as follows: First offense, One-year disqualification; Second offense, Two-year disqualification; and Third offense, permanent disqualification.

WVIMM §§ 10.4.2-10.4.2.A provides, in part:

All SNAP AGs must report changes related to eligibility and benefit amount at application and redetermination.

WV IMM § 11.2.3.B provides, in part:

IPVs 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.

WV IMM § 11.6.1 provides, in part:

A willfully false statement is one that is deliberately given, with the intent that it be accepted as true, and with the knowledge that it is false.

DISCUSSION

Federal regulations define an Intentional Program Violation (IPV) as making a false statement related to the acquisition of Supplemental Nutrition Assistance Program (SNAP) benefits. The Movant requested the Administrative Disqualification Hearing to determine whether the Defendant committed an IPV by way of providing a false statement at the time of review and is requesting that she be disqualified from participation in SNAP for a period of twelve (12) months. The Defendant was notified of the hearing by scheduling order issued on October 17, 2023, via First Class U.S. Mail. The Defendant failed to appear for the hearing and/or provide good cause for her failure to do so. In accordance with 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.

On December 15, 2022, the Defendant completed a redetermination for SNAP benefits and reported a total household earned income of \$1819.70, and a total household unearned income of \$600. The Defendant answered "No" to SNAP review question(s) number four (4): "Has your household's gross earned income (including earnings from self-employment) increased or

decreased by more than \$125 from the amount above?” and “Has anyone had a change in earnings (including earnings from self-employment) because they changed, started or stopped a job?” The Defendant signed the December 15, 2022 review form acknowledging that the information contained was true and correct to the best of her knowledge. The Defendant's signature further acknowledged she understood that if she intentionally provides false information or withholds information, she may be disqualified from receiving SNAP benefits for a penalty period of twelve months for the first-offense.

On August 03, 2023, the IFM Unit received a referral alleging that a member of the Defendant's AG, [REDACTED] has been employed with and receiving wages from [REDACTED]. On September 18, 2023, the Movant, through its investigation, by way of [REDACTED] Payroll Coordinator for [REDACTED], confirmed that [REDACTED] has been employed with and receiving wages from [REDACTED] since September 12, 2022 - during and beyond the date of the Defendant's December 2022 SNAP review. The Defendant did not appear for the hearing, and as such could not dispute facts presented by the Movant.

WVIMM § 1.2.4 Client Responsibility provides, in part, that it is the client's responsibility to provide complete and accurate information about his/her circumstances so that the Worker is able to make a correct determination about his/her eligibility. The Defendant had the responsibility to provide complete and accurate information concerning her household income in order for the Movant to make a correct determination regarding the AG's SNAP eligibility. The Movant established, by way of undisputed testimony and employment/payroll confirmation provided by [REDACTED], that the Defendant provided a false statement at the time of her review to acquire SNAP benefits she was not entitled to receive, thereby meeting the definition of an IPV. Pursuant to state and federal regulations, individuals found to have committed an IPV through an ADH shall be ineligible to participate in SNAP for a specified time, depending on the number of offenses committed. Because the Defendant had no previous history of IPV disqualification penalties, a first-offense twelve (12) month disqualification penalty should be imposed, beginning in accordance with timelines established in federal regulations.

CONCLUSIONS OF LAW

- 1) Federal regulations define an Intentional Program Violation (IPV) as making a false or misleading statement, misrepresenting, concealing, or withholding facts, violating the Food Stamp Program (SNAP), 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.
- 2) The Movant provided clear and convincing evidence that the Defendant underreported her total household income in order to acquire SNAP benefits she was otherwise not entitled to receive.
- 3) Because the action of the Defendant constitutes an IPV, the Movant must disqualify the Defendant from receipt of SNAP benefits.
- 4) Because the IPV is a first-offense, the disqualification period is twelve (12) months

beginning January 01, 2024.

DECISION

It is the finding of the State Hearing Officer that the Defendant committed an Intentional Program Violation (IPV). The Defendant will be disqualified from receipt of SNAP benefits for a period of twelve (12) months, beginning January 01, 2024.

ENTERED this ____ day of November 2023.

Angela D. Signore
State Hearing Officer