

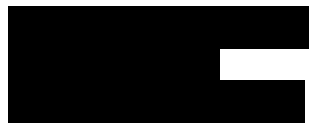


**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
P.O. Box 1247
Martinsburg, WV 25402**

**Jim Justice
Governor**

**Bill J. Crouch
Cabinet Secretary**

October 17, 2017



RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-2410

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,

Lori Woodward
State Hearing Officer
Member, State Board of Review

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

cc: Rachel Hartman, BCF, [REDACTED] Co. DHHR

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

██████████,

Appellant,

v.

Action Number: 17-BOR-2410

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Respondent.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision of the State Hearing Officer resulting from a fair hearing for ██████████. 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. This fair hearing was convened on October 12, 2017, on an appeal filed August 31, 2017.

The matter before the Hearing Officer arises from the Respondent's closure of Supplemental Nutrition Assistance Program (SNAP) benefits case.

At the hearing, the Respondent appeared by Rachel Hartman, Economic Service Supervisor. The Appellant appeared *pro se*. The witnesses were sworn and the following documents were admitted into evidence:

Department's Exhibits:

- D-1 Notice of Disqualification for Intentional Program Violation, dated July 31, 2017
- D-2 Hearing Summary

Appellant'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 Appellant began receiving SNAP benefits in the State of West Virginia in March 2017.
- 2) The Respondent's representative, Rachel Hartman, received notification from the Investigations and Fraud Management (IFM) unit that a Public Assistance Reporting Information System (PARIS) match indicated that the Appellant had a 12-month SNAP disqualification, beginning August 1, 2017 through July 31, 2018. (Exhibit D-1)
- 3) Ms. Hartman sent notice of SNAP closure beginning the month of September 2017 to the Appellant; however, the incorrect closure reason had populated on the letter. Therefore, Ms. Hartman reopened the Appellant's benefits for the month of September, and sent notice of closure with the correct reason listed for SNAP benefit termination beginning October 1, 2017.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (IMM) §3.3C, explains that a Public Assistance Reporting Information System (PARIS) data match occurs quarterly. The System retrieves information from the Department of Defense (DoD) and completes an interstate and a Veterans' Affairs (VA) match. Verification is received through Data Exchange and is compared to the information in the case record. The client's Social Security Number (SSN) is used to retrieve the information. An electronic match may occur on one or more of the following:

1. Federal Match – A return on this match is initiated from the DoD and the Office of Personnel Management (OPM). The match indicates an individual is receiving income and includes records for active and retired federal civilian and military personnel. Health care coverage eligibility is also available in the federal match.
2. Interstate Match – A return on this match indicates an individual is enrolled for benefits in two or more states. Automatic disenrollment for the West Virginia program occurs for the matched individuals. If the individual is the primary person in the entire case, it will close.
3. VA Match – A return on this match indicates an individual is receiving income and medical assistance payments from VA. Compensation and pension data are provided along with third-party liability information.

The process is administered by the Office of Inspector General's Investigations and Fraud Management Unit (OIG). When OIG determines action is necessary by the Worker, he will be notified. The information received is considered verified upon receipt. The Worker has 10 days to take the action specified.

IMM §9.1.A.2.h mandates that all persons who have been found guilty of an Intentional Program Violation (IPV) are disqualified as follows: 1st offense = 1 year; 2nd offense = 2 years; 3rd offense = Permanent.

Individuals found to have committed an IPV either 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, shall be ineligible to participate in the Program for a period of twelve months for the first IPV. (7 CFR 273.16(a)(3)(b)(1))

7 CFR 273.16(e)(8)(i) states that if the hearing authority rules that the individual has committed an IPV, the household member must be disqualified in accordance with the disqualification periods and procedures in paragraph (b) of this section. The same act of IPV repeated over a period of time must not be separated so that separate penalties can be imposed.

7 CFR 273.16(e)(8)(ii) instructs that no further administrative appeal procedure exists after an adverse State level hearing. The determination of IPV made by a disqualification hearing official cannot be reversed by a subsequent fair hearing decision. The household member, however, is entitled to seek relief in a court having appropriate jurisdiction. [Emphasis added] The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy.

7 CFR 273.16(i)(1) requires each State agency to report to United States Department of Agriculture (USDA) Food and Nutrition Service (FNS) information concerning individuals disqualified for an IPV, including those individuals disqualified based on the determination of an administrative disqualification hearing official or a court of appropriate jurisdiction, and those individuals disqualified as a result of signing either a waiver of right to a disqualification hearing or a disqualification consent agreement in cases referred for prosecution. This information shall be submitted to FNS so that it is received no more than 30 days after the date the disqualification took effect.

7 CFR 273.16(i)(2)(ii) explains that State agencies shall access disqualified recipient information from the database that allows users to check for current and prior disqualifications.

7 CFR 273.16(i)(4) directs that all data submitted by State agencies will be available for use by any State agency that is currently under a valid signed Matching Agreement with FNS. State agencies shall, at a minimum, use the data to determine the eligibility of individual Program applicants prior to certification, and for 1 year following implementation, to determine the eligibility at recertification of its currently participating caseload. In lieu of the 1-year match at recertification requirement and for the same purpose, State agencies may conduct a one-time match of their participating caseload against active disqualifications in the disqualified recipient database. State agencies have the option of exempting minors from this match. State agencies shall also use the disqualified recipient database for the purpose of determining the eligibility of newly added household members.

7CFR273.16(i)(5) explains that the disqualification of an individual for an IPV in one political jurisdiction shall be valid in another. [Emphasis added]

DISCUSSION

The SNAP program is a federally funded program administered by the USDA FNS. Federal guidelines mandate the imposition of disqualification from the SNAP benefits when there has been a finding of an IPV. Once found to be disqualified from Program benefits, an individual cannot participate in SNAP for the period of disqualification. FNS has a database (PARIS) which reports disqualified individuals to each state that participates in SNAP. By policy, once a PARIS match showing SNAP disqualification of an individual and the local office is alerted, the disqualified individual's SNAP benefits must be terminated.

The Appellant was receiving SNAP benefits in the State of West Virginia. The IFM unit received a PARIS match showing the Appellant as being disqualified from receiving SNAP benefits from August 1, 2017 to July 31, 2018 by a determination made by an administrative disqualification hearing held in the State of [REDACTED]. IFM notified the local office of the disqualification. Ms. Hartman acted on the notice of disqualification, and terminated the Appellant's SNAP benefits effective September 2017. However, because the notice of closure reason was erroneously populated, the Appellant's SNAP benefits were reinstated for the month of September. A correct notice of closure was sent to the Appellant with her SNAP benefits terminating October 2017.

The Appellant contended that she was unaware of the disqualification from SNAP benefits imposed by the State of [REDACTED]. She testified that she submitted a closure notice from the State of [REDACTED] for the month of February.

Per federal policy, once a state imposes a SNAP disqualification, it can only be reversed by a court of proper jurisdiction. The Board of Review does not have the authority to reverse the Appellant's IPV disqualification.

The Respondent correctly acted on the information received regarding the Appellant's IPV disqualification from the state of [REDACTED] by terminating her SNAP benefits.

CONCLUSIONS OF LAW

- 1) The Appellant has been disqualified from August 1, 2017 to July 31, 2018 from participating in the Supplemental Nutrition Assistance Program by the State of [REDACTED]
- 2) The Respondent's IFM unit received a PARIS match of the Appellant's IPV disqualification and notified the local office.
- 3) Once a SNAP IPV disqualification has been imposed by a state, it can only be reversed by a court of proper jurisdiction.
- 4) The Respondent correctly terminated the Appellant's SNAP benefits.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Department's determination to terminate the Appellant's SNAP benefits for a period from August 1, 2017 to July 31, 2017.

ENTERED this 17th day of October 2017

Lori Woodward, State Hearing Officer