State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

November 28, 2007

_____
_____
_____

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on the Food Stamp Administrative Disqualification Hearing held November 26, 2007 to determine whether you committed an Intentional Program Violation (IPV).

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.

Intentional Program Violations shall consist of having intentionally: (1) made a false or misleading statement or misrepresented, concealed or withheld facts or (2) committed any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any State statute relating to the use presentation, transfer, acquisition, receipt or possession of Food Stamp coupons. Individuals found to have committed an act of Intentional Program Violation will be ineligible for a specified time determined by the number of previous Intentional Program Violation disqualifications. (West Virginia Income Maintenance Manual ' 20.2 and Code of Federal Regulations-7 CFR ' 273.16)

Information submitted at the hearing revealed that you intentionally provided false and misleading information about your household income when you applied for Food Stamps in March 2007.

It is the decision of the State Hearing Officer that you committed an Intentional Program Violation and a one (1)-year Food Stamp disqualification penalty will be applied.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Karen Crossland, Repayment Investigator, DHHR

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
BOARD OF REVIEW

_____,

Defendant,

v. **Action Number: 07-BOR-2178**

West Virginia Department of
Health and Human Resources,

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a hearing concluded on November 28, 2007 for _____. This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. Notification of the November 26, 2007 hearing date was mailed to the Defendant on October 23, 2007 via First Class Mail as the Defendant is a current recipient of Department benefits and resides at an address known to the Department.

All persons giving testimony were placed under oath.

II. PROGRAM PURPOSE:

The program entitled Food Stamps is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The purpose of the Food Stamp Program is to provide an effective means of utilizing the nation's abundance of food to safeguard the health and well-being of the nation's population and raise levels of nutrition among low-income households. This is accomplished through the issuance of an EBT card to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

III. PARTICIPANTS:

Karen Crossland, State Repayment Investigator, DHHR

The Defendant, _____, failed to appear.

Presiding at the hearing was Pamela L. Hinzman, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether the Defendant committed an Intentional Program Violation and should be disqualified from participation in the Food Stamp Program for a period of one (1) year.

V. APPLICABLE POLICY:

7 CFR Section 273.16 USDA Code of Federal Regulations
Common Chapters Manual Chapter 700, Appendix A
West Virginia Income Maintenance Manual Sections 1.2E, 9.1g, 20.1 and 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 Food Stamp Claim Determination Form
D-2 Daycare income verification from FACTS data system
D-3 Food Stamp application dated March 23, 2007 with Rights and Responsibilities
D-4 West Virginia Income Maintenance Manual Section 1.2E
D-5 West Virginia Income Maintenance Manual Section 9.1g
D-6 West Virginia Income Maintenance Manual Sections 20.1 and 20.2

VII. FINDINGS OF FACT:

1) A request for an Administrative Disqualification Hearing was received by the Board of Review from State Repayment Investigator Karen Crossland on September 27, 2007. The investigator contends that the Defendant committed an Intentional Program Violation and recommends that the Defendant be disqualified from participation in the Food Stamp Program for a period of one (1) year.

2) Information submitted by the Department reveals that the Defendant completed a Food Stamp application (D-3) on March 23, 2007, indicating on Pages 10 and 11 of the application that income in the household included _____'s earnings from [redacted]

and the Defendant's earned income from [redacted] restaurant. The Defendant's signature is listed on Page 16 of the application attesting that she provided accurate information to the case worker. The Defendant also signed Page 8 of the Rights and Responsibilities form (D-3) indicating that she had read statements on the form, understood the statements, and provided true and correct information.

3) In June 2007, the Economic Service Worker received information that the Defendant had been providing daycare services for the Department. The Defendant began receiving this income in late 2006, according to verification from the FACTS data system (D-2).

4) The Repayment Investigator testified that the Defendant's failure to report daycare income resulted in a $433 Food Stamp over issuance for the period of March 2007 through July 2007.

5) West Virginia Income Maintenance Manual Section 1.2E (D-4) states that the client's responsibility is to provide information about his/her circumstances so the worker is able to make a correct decision about his/her eligibility.

6) West Virginia Income Maintenance Manual Section 20.2 (D-6):

> When an AG (Assistance Group) has been issued more Food Stamps than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation or Intentional Program Violation claim. The claim is the difference between the allotment the client received and the allotment he should have received.

7) West Virginia Income Maintenance Manual Section 20.2, C, 2 (D-6):

> Once an IPV (Intentional Program Violation) is established a disqualification penalty is imposed on the AG (Assistance Group) members who committed the IPV.
>
> The penalties are as follows: (Section 9.1, A, 2, g) 1st Offense: 1 year (Disqualification).

8) Common Chapters Manual 700, Appendix A, Section B, provides that an Intentional Program Violation shall consist of having intentionally (1) made a false or misleading statement, or misrepresented, concealed or withheld facts, or (2) Committed any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt or possession of Food Stamp benefits.

9) Common Chapters Manual 700, Appendix A, Section G (The Decision) states that the State Hearing Officer shall base the determination of Intentional Program Violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, an Intentional Program Violation as defined in Section B of Appendix A.

VIII. CONCLUSIONS OF LAW:

1) Policy states that when an Assistance Group has been issued more Food Stamps than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation or Intentional Program Violation claim.

2) If it is determined that an Intentional Program Violation has been committed, an appropriate disqualification penalty is imposed on the Assistance Group.

3) Evidence reveals that the Defendant failed to report her daycare income to the Economic Service Worker when applying for Food Stamp benefits in March 2007.

4) The Department is, therefore, correct in its proposal to impose an Intentional Program Violation.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's proposal to impose an Intentional Program Violation and disqualify the Defendant from participation in the Food Stamp Program for one (1) year.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 28th Day of November, 2007.

_____

Pamela L. Hinzman
State Hearing Officer