



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
150 Maplewood Avenue  
Lewisburg, WV 24901

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

November 16, 2007

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Ms. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your administrative disqualification hearing held November 15, 2007.

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.

For the purpose of determining, through an administrative disqualification hearing, whether or not a person has committed an Intentional Program Violation, the following criteria will be used: Intentional Program Violation shall consist of having (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 regulations, or any statute relating to the use, presentation, transfer, acquisition, receipt, or possession of Food Stamp coupons. (Section B. Appendix A, Chapter 700 of Common Chapters Manual) Individuals found to have committed an Intentional Program Violation shall be ineligible to participate in the Food Stamp Program for a fixed period of time as explained in section 20.2(D)(2)(e) of the WV Income Maintenance Manual and 7 CFR Section 273.16.

The information which was submitted at your hearing revealed you failed to report that you received a lump sum payment from Nationwide and that your children were not residing with you.

It is the ruling of the State Hearing Officer that you did commit and intended to commit an Intentional Program Violation. You will be disqualified from participation in the Food Stamp Program for twelve months beginning January 2008.

Sincerely,

Margaret M. Mann  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Danita Bragg, Repayment Investigator

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

\_\_\_\_\_,

**Defendant,**

v.

**Action Number: 07-BOR-2244**

**West Virginia Department of  
Health and Human Resources,**

**Respondent.**

**DECISION OF STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from an administrative disqualification hearing concluded on November 15, 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.

It should be noted here that the Defendant's benefits have been continued.

**II. PROGRAM PURPOSE:**

The Program entitled Food Stamp 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 food coupons to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

**III. PARTICIPANTS:**

Danita Bragg, Repayment Investigator

It should be noted that the Defendant, \_\_\_\_\_, did not appear for the hearing after being given proper and timely notification.

Presiding at the Hearing was Margaret M. Mann, State Hearing Officer and a member of the State Board of Review.

**IV. QUESTIONS TO BE DECIDED:**

The question(s) to be decided is whether it was shown by clear and convincing evidence that the Defendant, \_\_\_\_\_, committed and intended to commit an Intentional Program Violation.

**V. APPLICABLE POLICY:**

Common Chapters Manual, Chapter 700, Appendix A, Section B  
Sections 2.2 and 20.2 of the West Virginia Income Maintenance Manual  
7 CFR ' 273.16  
7 CFR ' 273.16 (e) (6)

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

- D-1 Form ES-FS-5 Food Stamp Claim Determination
- D-2 RAPIDS Screen IQFS Food Stamp Issuance History – Disbursement
- D-3 RAPIDS Screen EFAD Food Stamp Allotment Determination
- D-4 Combined Application and Review Form for Financial Assistance, Medical Assistance and Food Stamps & Rights & Responsibilities dated 09/08/2006
- D-5 Case Comments dated 07/09/2007 through 08/22/2007
- D-6 Income Maintenance Manual Section 2.2
- D-7 Income Maintenance Manual Section 20.2
- D-8 Copy of Federal Guidelines, Food and Nutrition Service, USDA Section 273.16 (c)
- D-9 ADH Summary

**VII. FINDINGS OF FACT:**

- 1) The Department requested this hearing be held for the purpose of determining that the Defendant committed an Intentional Program Violation (IPV) by failing to report correct household circumstances.
- 2) The IFM Unit received a referral for repayment on the case of the Defendant 06/04/2007. The reason for the referral was an unreported lump sum payment received by the Defendant in the amount of \$20,000 from Nationwide insurance as a result of a settlement due to an automobile accident. The Claimant is considered a reporting required case and was required to report this lump sum payment within ten (10) days of receipt of the lump sum which was received 03/01/2007.
- 3) The [REDACTED] County office received a report of an anonymous complaint 07/09/2007 regarding the Defendant's receipt of a lump sum payment. She was questioned several times by her worker about this and repeatedly denied receiving the lump sum payment. Finally, the Defendant agreed to give authorization to Nationwide to verify the amount on 08/22/2007. The lump sum was received by the Defendant 03/01/2007 in the amount of

\$20,000. During this time, the Defendant also did not report her children were out of the home. (Exhibit D-5)

- 4) The Defendant signed the Rights & Responsibilities on 09/08/2006. (Exhibit D-4) #31 states I agree to notify the DHHR of the following changes within 10 days if: For Food Stamps Only: This does not apply to Simplified Reporting households if certified for six months. Item H states: Anyone in my household receives a lump sum payment because this may affect our eligibility for continuing benefits and I may be expected to live on this income for a specific period of time. It also states I understand that failure to provide this information may result in a penalty or sanction. Item 42 states I understand, if I give incorrect or false information or if I fail to report changes that I am required to report, I may be required to repay any benefits I receive. I may also be prosecuted for fraud and I understand that any information given is subject to verification by an authorized representative of DHHR.
- 5) A claim has been established in the amount of \$679.00 for the period 04/07 through 07/07. (Exhibits D-1, D-2 & D-3)
- 6) Section 2.2B.1.b. of the West Virginia Income Maintenance Manual reads in part that all Food Stamp AG's, in which adults are at least age 60 and/or disabled with no earnings or only excluded earnings, are certified for 24 months. These AG's may include individuals under age 18 as long as all adults are elderly and/or disabled. These AG's must report the following changes which include, but are not limited to: Changes in AG composition; Changes in the amount of assets; Changes in the AG's income, including a change of unearned income of more than \$50. Change Reporting AG's must report all required changes within 10 days of onset or knowledge of the change.
- 7) Common Chapters Manual, Chapter 700, Appendix A, Section B, reads in part:

An Intentional Program Violation consists of having intentionally made a false statement, or misrepresented, concealed or withheld facts, or committed any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any statute relating to the use, presentation, transfer, acquisition, receipt or possession of food stamp coupons.
- 8) Section 20.2 of the West Virginia Income Maintenance Manual reads in part:

When an AG has been issued more Food Stamps than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation (UPV) or Intentional Program Violation (IPV) claim. The claim is the difference between the entitlement the AG received and the entitlement the AG should have received.
- 9) 7 CFR ' 273.16 (c) Definition of Intentional Program Violation

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 for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of coupons, authorization

cards or reusable documents used as part of an automated benefit delivery system (access device).

10) 7 CFR ' 273.16 (e) (6) Criteria for determining Intentional Program Violation.

The hearing authority 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, Intentional Program Violation as defined in paragraph (c) of this section.

**VIII. CONCLUSIONS OF LAW:**

- 1) Intentional Program violations shall consist of having intentionally made a false or misleading statement or misrepresented, concealed or withheld facts.
- 2) The hearing authority 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.
- 3) The un-refuted evidence shows the Defendant did not report the receipt of a lump sum payment of \$20,000 from Nationwide on 03/01/2007. Un-refuted testimony shows the Claimant repeatedly denied receiving this lump sum when being questioned by her caseworker. She also did not report that her children were out of the home during this period of time.
- 4) This failure to report correct household income and circumstances constitutes an intentional withholding of information. The evidence demonstrates that the Defendant intended to withhold this information.

**IX. DECISION:**

It is the finding of the State Hearing Officer that the Defendant did commit and intended to commit an Intentional Program Violation. The Defendant will be disqualified for twelve months beginning January 1, 2008. Repayment will be initiated as policy dictates.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 16th Day of November, 2007.**

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**Margaret M. Mann  
State Hearing Officer**