



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
4190 W Washington St  
Charleston, WV 25313  
304-746-2360 ext 2227

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

August 26, 2008

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

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

Attached is a copy of the findings of fact and conclusions of law on the Food Stamp Administrative Disqualification Hearing held June 10, 2008 for the purpose of determining whether or not an Intentional Program Violation (IPV) occurred.

In arriving at a decision, the State Hearings 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.

Eligibility for the Food Stamp program is based on current policy and regulations. Some of these regulations state as follows: 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).

The information submitted at the hearing revealed that you intentionally concealed or withheld facts about your household income in order to receive Food Stamp benefits for which you were not entitled by law.

It is the decision of the State Hearing Officer that an Intentional Program Violation was committed by you and a disqualification penalty of one (1) year will be applied. This disqualification will begin effective October 1, 2008.

Sincerely,

Jennifer Butcher  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Debbie Roberts, Repayment Investigator

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

\_\_\_\_\_,

**Defendant,**

v.

**Action Number: 08-BOR-1105**

**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 an Administrative Disqualification Hearing concluded on August 27, 2008 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. This hearing was convened on June 10, 2008.

**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 EBT benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

**III. PARTICIPANTS:**

Debbie Roberts, State Repayment Investigator, DHHR

Presiding at the Hearing was Jennifer Butcher, 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 (IPV) and should be disqualified for a specified period from participation in the Food Stamp Program.

**V. APPLICABLE POLICY:**

7 CFR ' 273.16 Code of Federal Regulations  
Common Chapters Manual Chapter 700, Appendix A  
West Virginia Income Maintenance Manual ' 1.2E, & 20.2

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

**Department's Exhibits:**

- D-1 Repayment Referral dated October 25, 2007**
- D-2 West Virginia Income Maintenance Manual Chapter 1.2E**
- D-3 Food Stamp Claim Determination worksheet**
- D-4 Federal Regulations cite 7CFR372.16 3b1**
- D-5 Application for Food Stamps dated February 8, 2007**
- D-6 DFA-RR-1Rights and Responsibilities dated February 8, 2007**
- D-7 Case Comments dated October 25,2007**
- D-8 West Virginia Income Maintenance Manual Chapter 2.2B and 1a.**
- D-9 West Virginia Income Maintenance Manual Chapter 20.6A**
- D-10 Notification of Intent to Disqualify letter dated February 25, 2008**
- D-11 West Virginia Income Maintenance Manual Chapter 20.2**
- D-12 ADH Hearing Summary date March 21, 2008**

**VII. FINDINGS OF FACT:**

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from State Repayment Investigator, Debbie Roberts, on March 25, 2008. Ms. Roberts contends that the Defendant has committed an Intentional Program Violation and is recommending that the Defendant be disqualified from participation in the Food Stamp Program for a period of one (1) year.
- 2) Notification of the June 10, 2008 hearing was mailed to the Defendant on March 26, 2008 via regular US Mail the Defendant is actively receiving benefits through the Department of Human Resources.
- 3) The hearing convened as scheduled at 10:30 am, and as of 10:45am, the Defendant failed to appear. As set forth in regulations [7 CFR 273.16 (e) (4)], and State Policy (West Virginia Department of Health and Human Resources Common Chapters Manual, Chapter 740.20), the hearing was conducted without the Defendant in attendance.

- 4) The Defendant completed a review for Food Stamp benefits on February 8, 2007. The Department submitted Exhibit D-5, Combined Application and Review Form (CAF) signed by the Defendant on February 8, 2008, to show the Defendant reported that her household consisted of herself and one son child, son [REDACTED]. She also verified the identity of absent parent as [REDACTED] and she verified by not reporting to have any earned or unearned income.
- 5) Ms Roberts testified by presenting (Exhibit D-3) that indicates no income was used to calculate the Food Stamp benefits from the prior eligibility period of October 2006 through February 2007 and the new certification period of March through August 2007.
- 6) Department's Exhibit D-6, DFA-RR-1, is the Rights and Responsibilities form completed and signed by the Defendant on the day of review February 8, 2008. The Defendant marked "yes" to item #4 on page 2 which states:

I understand if I am found (by court action or an administrative disqualification hearing) to have committed an act of intentional program violation, I will not receive Food Stamp benefits as follows: First Offense – one year; Second Offense – two years; Third Offense- permanently. In addition, I will have to repay any benefits received for which I was not eligible.

By signing the DFA-RR-1, the Defendant certified that he/she read, understood, and accepted the Rights and Responsibilities and that all of the information he provided was true and correct.

- 7) According to (Exhibit D-7) On October 25, 2007 the Defendant reported she had been receiving child support in the amount of \$ 175.00 per month from January through July when she was applying for West Virginia Works. This income was not provided during the review on February 8, 2008.
- 8) West Virginia Income Maintenance Manual Section Chapter 1.2E states:

The client's responsibility to provide information about his circumstances so the worker is able to make a correct decision about his eligibility. When the client is not able to provide the required verification the worker must assist him. The client must be instructed that his failure to fulfill his obligation may result in case closure, denial of application, reduction in benefits, removal of an individual or repayment of benefits.

- 9) West Virginia Income Maintenance Manual Section 20.2 (C) (2):  
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: ( ' 9.1, A, 2, h) 1st Offense: 1 year (Disqualification)
- 10) Common Chapters Manual 7 740.11 D 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.

**VIII. CONCLUSIONS OF LAW:**

- 1) The evidence reveals that the Defendant completed a review for benefits with the Department of Health Human Resources on February 8, 2008 and withheld information regarding the unearned income of \$175.00 per month child support in order to receive Food Stamp benefits to which she was not entitled. This clearly establishes intent.
- 2) According to testimony given by Repayment Investigator, the Defendant reported to a department worker when she came in to apply for West Virginia Works that she had been receiving \$175.00 in Child Support since January 2008 through July 2008. The defendant was in the ██████████ County Department of Human Resources office on February 8, 2008 and gave information at her review she had no income.
- 3) The policy and regulations that govern the Food Stamp program state that a Food Stamp Program Violation has occurred when an individual intentionally makes a false or misleading statement, or misrepresented, concealed or withheld facts relating to the use, presentation, transfer, acquisition , receipt or possession of Food Stamp benefits.
- 4) There is clear and convincing evidence that the Defendant committed an intentional program violation as defined in the Food Stamp policy and regulations.
- 5) In accordance with Food Stamp policy and regulations, an Intentional Program Violation has been committed and a disqualification penalty must be applied. The disqualification for a first time offense is twelve months (one year).

**IX. DECISION:**

Intentionally concealing and withholding facts to secure food Stamp benefits constitutes a clear violation of the regulations. Based on evidence presented, I find the violation intentional. The Defendant will be disqualified from participating in the Food Stamp Program for twelve (12) months beginning October 1, 2008.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 26th Day of August, 2008.**

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**Jennifer Butcher  
State Hearing Officer**