



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

December 3, 2008

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

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

Attached is a copy of the findings of fact and conclusions of law on the Food Stamp Administrative Disqualification Hearing held September 9, 2008 for the purpose of determining whether an Intentional Program Violation (IPV) was committed.

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.

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 Stamps. 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 reveals that you intentionally provided false and misleading information about your household income in order to receive Food Stamp Benefits for which you were not legally entitled.

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 January 1, 2009.

Sincerely,

Jennifer Butcher  
State Hearing Officer  
Member, State Board of Review

cc: Christina Saunders, Repayment Investigator  
Erika H. Young, Chairman, Board of Review

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

\_\_\_\_\_,  
**Defendant,**

v.

**Action Number: 08-BOR-1776**

**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 December 2, 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 September 9, 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:**

Christina Saunders, Repayment Investigator

Presiding at the Hearing was Jennifer Butcher, State Hearing Officer and a member of the State Board of Review.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not 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, 20.2E, 20.2F2.a, & 20.6A,

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

**Department's Exhibits:**

- D-1 Repayment Referral dated February 2, 2008
- D-2 West Virginia Income Maintenance Manual Chapter 1.2E
- D-3 Food Stamp Claim Determination worksheet
- D-4 Federal Regulations § 7CFR372.16
- D-5 Application for Food Stamps dated September 24, 2007
- D-6 DFA-RR-1Rights and Responsibilities dated September 24, 2007
- D-7 Bureau of Employment Programs Unemployment Compensation Detail Screen date October 3, 2007
- D-8 West Virginia Income Maintenance Manual Chapter 20.6A
- D-9 Notification of Intent to Disqualify letter dated May 20, 2008
- D-10 West Virginia Income Maintenance Manual Chapter 20.2
- D-11 West Virginia Income Maintenance Manual Chapter 20.2E
- D-12 West Virginia Income Maintenance Manual Chapter 20.2F2.a
- D-13 Administration Disqualification Hearing Summary date September 9, 2008

**VII. FINDINGS OF FACT:**

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from State Repayment Investigator Christina Saunders on July 2, 2008. Ms. Saunders 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 September 9, 2008 hearing was mailed to the Defendant on July 22, 2008 via First Class Mail as the Defendant is a current recipient of benefits and resides at an address known to be good by the Department.
- 3) The hearing was scheduled to convene at 9:30 A.M., however, as of 9:45 A.M., 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 § 740.20), the hearing was conducted without the Defendant in attendance.
- 4) The Department contends that the Defendant intentionally violated the Food Stamp Program regulations by failing to report Unemployment Compensation Income he was receiving when he completed an application for Food Stamp Benefits on September 24, 2007 (Exhibit D-5). Page six (6) of Exhibit D-5 reveals that the Defendant reported the only income received in the household was his Social Security Retirement of Eight Hundred and Ninety-one Dollars(\$891.00) per month.
- 5) The Department submitted (Exhibit D-7); Unemployment Compensation Benefits to verify the Defendant had been receiving the benefits since September 11, 2008 in the amount of Two Hundred and Twenty-five Dollars (\$225.00) per week.

- 6) Department's Exhibit D-3 (Food Stamp Claim Determination) demonstrates that by providing false and misleading information about his income, the Defendant received Seventy-Five (\$75.00) in Food Stamp Benefits for which he was not legally entitled during the period of September and October, 2007.
- 7) The Department cited the Rights and Responsibilities form (Exhibit D-6) that was completed and signed by the Defendant on the day of application (September 24, 2007). The Defendant marked "yes" to item #4 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 read, understood, and accepted the rights and responsibilities and that all of the information he provided was true and correct.

- 8) West Virginia Income Maintenance Manual § 1.2 (E):

The client's responsibility is to provide information about his circumstances so the worker is able to make a correct decision about his eligibility.

- 9) West Virginia Income Maintenance Manual § 20.2:

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.

- 10) West Virginia Income Maintenance Manual § 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)

- 11) Common Chapters Manual §740.11.D. Intentional Program Violation –

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 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.

**VIII. CONCLUSIONS OF LAW:**

- 1) 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 misrepresents, conceals, or withholds facts relating to the use, presentation, transfer, acquisition, receipt or possession of Food Stamp benefits.
- 2) The evidence reveals that the Defendant withheld information about all his income in order to receive Food Stamp Benefits for which he was not legally entitled. This clearly establishes intent on the Food Stamp application dated September 24, 2007.
- 3) The evidence is clear and convincing that the Defendant intentionally committed a Food Stamp Program violation as defined in the Food Stamp policy and regulations.
- 4) 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 making a false or misleading statement or misrepresenting facts to secure Food Stamp Benefits constitutes a clear violation of the regulations. Based on the evidence presented, I find the violation intentional.

The Agency's proposal to apply a Food Stamp disqualification is **upheld**. The Disqualification period will begin effective December 1, 2008.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 3rd Day of December, 2008.**

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**Jennifer Butcher  
State Hearing Officer**