



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

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

February 20, 2008

Dear Ms _____:

Attached is a copy of the findings of fact and conclusions of law on the Food Stamp Administrative Disqualification Hearing held January 24, 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 provided false and misleading information about your household composition 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 April 1, 2008.

Sincerely,

Jennifer Butcher
State Hearing Officer
Member, State Board of Review

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

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

_____,

Defendant,

v.

Action Number: 07 BOR-2240

**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 January 24, 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 January 24, 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:

Danita Bragg, 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:

DHS-1 Food Stamp Claim Determination
DHS-2 Food Stamp Claim Calculation Sheet
DHS-3 Food Stamp Issuance History –Disbursement
DHS-4 Food Stamp Allotment Determination
DHS-5 Application for Food Stamps combined with Rights and Responsibilities signed and dated January 12, 2007
DHS-6 Case Comments from Income Maintenance Worker for May 24, 2007
DHS-7 WV Income Maintenance Manual § 1.2E
DHS-8 WV Income Maintenance Manual § 20.2
DHS-9 7CFR §273.16 Code of Federal Regulations

VII. FINDINGS OF FACT:

1. A request for an Administrative Disqualification Hearing was received by the Board of Review from State Repayment Investigator, Danita Bragg, on October 4, 2007. Ms Bragg 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 January 10, 2008 hearing was mailed to the Defendant on December 3, 2007 via Regular US Mail. State Hearing Officer received a memorandum dated December 14, 2008

requesting Hearing to be rescheduled. The request was granted, a new date was selected and notification of January 17, 2008 was sent via US Mail on December 14, 2008. Once again the Hearing needed to be rescheduled by State Hearing Officer. Final notification for a January 24, 2008 Hearing was sent via regular US Mail on January 17, 2008.

3. The hearing convened as scheduled at 10:15 am on Thursday, January 24, 2008, and as of 10:15am, 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 700, Appendix A Part F), the hearing was conducted without the Defendant in attendance.
4. The Defendant completed an application for Food Stamp benefits on January 12, 2007. The Department submitted Exhibit DHS- 5, Combined Application and Review Form (CAF) signed by the Defendant on January 12, 2007, to show the Defendant reported that her household consisted of four persons and three persons are to be included in the benefit group _____, _____ Jr., and _____.
5. Exhibit DHS-6 Case comments dated May 24, 2007 entered by the worker assigned to the case stated Defendant was in the county office asking about her husband's medical card and after checking the case found son _____ was not living in the household, but had been living with his grandmother, _____, since November 2006 and is in case 4009623942. This statement was confirmed by phone call to the grandmother by worker.
6. Exhibit DHS-5, DFA-RR-1, is the Rights and Responsibilities form completed and signed by the Defendant on the day of application (January 12, 2007). 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 received 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.

- a. 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. Department's Exhibit DHS-8 West Virginia Income Maintenance Manual ' 20.2:

When an Assistance Group (AG) 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.

8. 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 for a specified time, depending on the number of offences committed.

9. Common Chapters Manual 700, Appendix A, 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 on January 12, 2007 the Defendant provided false information by stating her son _____ was living with her at the time of review. When in fact he had living with his grandmother since November 2006. The Defendant gave this false information in order to receive Food Stamp benefits to which she was not entitled. This clearly establishes intent.
2. The policy and regulations that govern the Food Stamp program state that a Intentional 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.
3. There is clear and convincing evidence that the Defendant committed an Intentional 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 providing false or misleading statements or misrepresenting facts to secure food Stamp benefits constitutes a clear violation of the regulations. Based on evidence presented, I find the violation intentional.

Only the Defendant is subject to this disqualification. The 1-year disqualification will begin effective April 2008.

The Agency=s proposal to apply a Food Stamp disqualification is **upheld**.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 20th Day of February, 2008.

**Jennifer Butcher
State Hearing Officer**