



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P. O. Box 2590
Fairmont, WV 26555

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

November 3, 2006

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on the Food Stamp Administrative Disqualification Hearing held November 1, 2006 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 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 January 1, 2007.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Sally Musick, SRI, DHHR

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

_____,
Defendant,

v.

Action Number: 06-BOR-1305

**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 November 3, 2006 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 November 1, 2006.

It should be noted here that the Defendant is a current recipient of benefits through the Department.

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:

Sally Musick, State Repayment Investigator, DHHR

Presiding at the Hearing was Thomas E. Arnett, 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 for a specified period from participation in the Food Stamp Program.

V. APPLICABLE POLICY:

7 CFR ' 273.16 USDA Code of Federal Regulations
Common Chapters Manual Chapter 700 App A
West Virginia Income Maintenance Manual ' 1.2, 2.2, 9.1, 10.4 & 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

DHS-1	Screening Form dated 9/15/05 Combined Application & Review Form dated 9/15/05
DHS-2	Case Comments of 9/16/05
DHS-3	Case Comments of 11/16/05
DHS-4	Income Verification from [REDACTED]
DHS-5	Food Stamp Claim Determination (ES/FS-5) and Benefit Calculations
DHS-6	DFA-RR-1 dated 9/15/05
DHS-7	West Virginia Income Maintenance Manual Chapter 1.2 & 2.2
DHS-8	IG-BR-44a and IG-BR-44 dated 2/6/06
DHS-9	West Virginia Income Maintenance Manual Chapter 9.1 & 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, Sally Musick, on March 3, 2006. Ms. _____ contends that the Defendant has committed an Intentional Program Violation and is recommending that she be disqualified from participation in the Food Stamp Program for a period of one (1) year.
- 2) Notification of the November 1, 2006 hearing was mailed to the Defendant on July 18, 2006 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 convened as scheduled at 11:30 a.m., and as of 11:45 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, Chapter 700, Appendix A Part F), the hearing was conducted without the Defendant in attendance.

- 4) On or about February 6, 2006, the Defendant was notified via a Notification of Intent to Disqualify that an investigation of her Food Stamp case substantiated allegations that she intentionally violated the Food Stamp Program by failing to report earned income from employment during her 9/15/05 eligibility review.
- 5) The Department submitted Exhibit DHS-1, Screening Form dated and Combined Application & Review Form (CAF) dated 9/15/06, that was completed and signed by the Defendant during her September 15, 2006 Food Stamp eligibility review. The Defendant indicated on both of these documents that no one in the home receives income through employment. The only income reported by the Defendant is Social Security Income for _____. The Defendant signed page 11 of the CAF indicating that all of the information provided was true and that she understood it is a criminal violation of federal and state law to provide false or misleading information for the purpose of receiving benefits for which she is not entitled. The Rights and Responsibilities portion of the application (Exhibit DHS-6) further explains the imposition of Food Stamp penalties if it is determined by a court action or an Administrative Disqualification Hearing that an Intentional Program Violation was committed.
- 6) Exhibit DHS-2 is Case Comments from the Department's RAPIDS computer system wherein the worker documented that the Defendant reported to her on 9/15/06 that she was not employed.
- 7) Exhibit DHS-3 includes a printout of Case Comments from RAPIDS that was documented on 11/16/06. This exhibit indicates that a report was received alleging the Defendant was working for _____ as a private caregiver for his mother and earning \$280 a week.
- 8) Exhibit DHS-4 is a Wage History form prepared by _____ on 12/4/05. In this document, Mr. _____ confirms that the Claimant began employment on August 27, 2005 and was paid \$280 per week from September 2, 2005 through November 11, 2005.
- 9) The Department submitted exhibit DHS-5 (Food Stamp Claim Determination and Benefit Calculations) to show that the Defendant received \$461 in Food Stamp benefits during the period of October and November 2005 for which she was not legally entitled.
- 10) West Virginia Income Maintenance Manual ' 10.4:
This section contains policy relating income disregards and deductions and to computation of and eligibility for Food Stamp benefits. It also states: To determine the coupon allotment, find the countable income {emphasis added} and the number in the benefit group.
- 11) 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.
- 12) 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.

- 13) 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, g) 1st Offense: 1 year (Disqualification)
- 14) 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 the Defendant provided false and misleading information about her household income in order to receive Food Stamp benefits for which she was not entitled under law. The Defendant withheld this information on two documents completed at the 9/15/05 Food Stamp eligibility review and it was documented by the Worker in RAPIDS that the Defendant reported she was not employed. This clearly establishes intent.
- 2) 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.
- 3) There is clear and convincing evidence to indicate that the Defendant committed an Intentional Program Violation (IPV) 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).
- 5) Only the Defendant is subject to this disqualification. The 1-year disqualification will begin effective January 2007.

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 evidence presented, I find the violation intentional.

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 3rd Day of November 2006.

**Thomas E. Arnett
State Hearing Officer**