



**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

September 25, 2006

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

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

Attached is a copy of the findings of fact and conclusions of law on your administrative disqualification hearing held September 21, 2006.

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 that you exchanged your food stamps for cash.

It is the ruling of the State Hearing Officer that you did commit an Intentional Program Violation. You will be disqualified from participation in the Food Stamp Program for twelve months beginning November 2006.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review  
Vickie Adkins, Repayment Investigator

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

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

**v.**

**Action Number: 06-BOR-1489**

**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 September 21, 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. It should be noted that this hearing was originally scheduled for June 28, 2006. It was rescheduled at the defendant's request for September 21, 2006.

It should be noted here that the defendant's benefits have been continued pending a hearing decision.

**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:**

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

Ida \_\_\_\_\_, Witness for the Department  
Vickie Adkins, Repayment Investigator

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 9.1 #2 (g) 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 Food Stamp Application dated 07/12/05
- D-2 Rights & Responsibilities dated 07/12/05
- D-3 Statement from Ida \_\_\_\_\_
- D-4 RAPIDS Screen BVPH Claim Payment History for Ida \_\_\_\_\_
- D-5 Case Comments dated 06/09/05
- D-6 Income Maintenance Manual Section 20.2
- D-7 ADH Summary

### **VII. FINDINGS OF FACT:**

- 1) The Investigations and Fraud Management (IFM) Claims & Collection Unit received a referral from the West Virginia Works Unit stating Ida \_\_\_\_\_ had called and alleged the defendant, \_\_\_\_\_, had sold her EBT card and PIN# to her two times.
- 2) Ms. Adkins, Repayment Investigator, contacted Ms. \_\_\_\_\_ and she agreed to come in and give a statement. (D-3) Ms. \_\_\_\_\_ came in on 09/07/05 and gave statement that Ms. \_\_\_\_\_ in 09/04 had sold her EBT card to her for \$100.00 in food stamps in exchange for \$50.00 in cash. Also in 05/05 she sold her EBT card and PIN# for \$80.00 in food stamps in exchange for \$40.00 cash. Ms. \_\_\_\_\_ stated when she got to the checkout in grocery store that

PIN# and card would not work and Ms. \_\_\_\_\_ would not give her money back. At this point she contacted the worker at DHHR. Ms. \_\_\_\_\_ also stated she asked Ms. \_\_\_\_\_ if her buying food stamps would cause her children to go without food

and Ms. \_\_\_\_\_ stated she got plenty of food stamps. It is noted that on 06/09/05 Ms. \_\_\_\_\_ was in the office to get a food referral from other agencies. (D-5)

- 3) The transaction for \$100.00 in food stamps in 09/04 went alright. However, the second transaction in 05/05 did not and Ms. \_\_\_\_\_ had to pay for \$80.00 food in cash. (D-3)
- 4) Ms. \_\_\_\_\_ signed a waiver for a 12-month disqualification and a repayment agreement for \$100.00. (D-4)
- 5) Ms. \_\_\_\_\_ attended the hearing and confirmed the information as stated above.
- 6) The Department's evidence shows that the defendant, \_\_\_\_\_, made an application for food stamps on 07/12/05. (D-1) She signed the Rights & Responsibilities on the same date. (D-2) Statement #5 on the form reads "**I understand** the Food Stamp benefits are to be used by my family and me to purchase food or seeds. I cannot sell my Food Stamp benefits or use someone else's benefits for myself. The Food Stamp benefits will not be used for any other purpose. **I understand** that I may not use my EBT Food Stamp benefits to purchase food on credit. This means I cannot pay for food already purchased or food to be received in the future." Statement #6 reads in part that "**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. In addition, I will have to repay any benefits received for which I was not eligible." The defendant signed the form certifying "that all statements have been read by me or to me and that I understand them. I certify that all the information I have given is true and correct and I accept these responsibilities."
- 7) A food stamp claim has been established in the amount of \$180.00 (\$100.00 in 09/04 and \$80.00 in 05/05).
- 8) Testimony from Ms. Adkins revealed that the defendant has received benefits for a long period of time since 1997 in RAPIDS, approximately 9 years. The Rights & Responsibilities have been read and signed by the defendant.
- 9) 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.
- 10) 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.

11) 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).

12) 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, or 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).
- 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 and testimony demonstrates the defendant committed and intended to commit an Intentional Program Violation by selling her food stamps for cash.

**IX. DECISION:**

It is the ruling 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 November 1, 2006. 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 25th Day of September, 2006.**

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**Margaret M. Mann  
State Hearing Officer**