



State of West Virginia  
**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

Joe Manchin III  
Governor

Office of Inspector General  
Board of Review  
PO Box 29  
Grafton WV 26354  
December 18, 2006

Martha Yeager Walker  
Secretary

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
  
Dear Mrs. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your Administrative Disqualification Hearing held November 15, 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.

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. 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 (West Virginia Income Maintenance Manual § 20.2 and Code of Federal Regulations- 7 CFR § 273.16)

The information submitted at the hearing established that you committed an Intentional Program Violation by failing to report earnings during the period May 2006- August 2006.

It is the decision of the State Hearing Examiner that an Intentional Program Violation was committed and a 1 year disqualification penalty is to be applied. This disqualification will begin January 1, 2007 and applies only to the defendant.

Sincerely,

Ron Anglin  
State Hearing Examiner  
Member, State Board of Review

cc: Board of Review  
Leonard Madia, DHHR, Investigator

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

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

**v.**

**Action Number 06-BOR- 2772**

**West Virginia Department of Health and Human Resources,  
Respondent.**

**SUMMARY AND DECISION OF THE STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Examiner resulting from an Administrative Disqualification hearing concluded on December 18, 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 15, 2006.

**II. PROGRAM PURPOSE:**

The **Food Stamp Program** is set up cooperatively between the Federal and State Government and administered by the West Virginia Department of Health and 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:**

Leonard Madia, Investigator, DHHR

Presiding at the hearing was Ron Anglin, State Hearing Examiner and a member of the State Board of Review.

**IV. QUESTION TO BE DECIDED:**

The question 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 USDA Code of Federal Regulations  
Common Chapters Manual Chapter 700 Appendix A  
West Virginia Income Maintenance Manual § 1.2, 9.1, 10.3, 10.4, 20.2

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

D-1 - Pay verification, [REDACTED] 10/3/03 - 7/28/06- \_\_\_\_\_  
D-2 - Combined Application and Review Form, 4/10/06  
D-3 - Income/Asset check off Sheet, 4/10/06  
D-4 - Rights and Responsibilities section of review form- pages 2 & 8, 4/10/06.  
D-5 - Food Stamp Claim Determination, 5/06- 8/06  
D-6 - WVIMM 1.2 E

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

1) An Administrative Disqualification Hearing requested by DHHR Investigator, Leonard Madia, August 18, 2006. Notification of November 15, 2006 hearing was mailed to defendant October 2, 2006. Notification was sent by first class mail as the agency's investigator indicated there was an active benefit case in the home. The hearing was scheduled to convene at 11:30 am. As of 11:50 the defendant had failed to appear. As set forth in regulations and in the notification to the defendant the hearing was held without the defendant present.

2) During the hearing Exhibits as noted in Section VI above were submitted.

3) Testimony was heard from the agency's investigator who was placed under oath.

4) Testimony on behalf of the agency reveals that the defendant's household received \$1010 in Food Stamp benefits during the period 5/06- 8/06 to which they were not entitled. The defendant failed to report earnings received by the household during this period from [REDACTED]. On a case review completed and signed by the defendant 4/10/06 this income was not reported. The agency recommends a 12 month disqualification.

5) Exhibit D-2 and D-4, Combined Application and Review Form, 4/10/06 was completed and signed by the defendant. The consequences in failing to report accurate information were acknowledged.

6) Exhibit D-3, an Income/Asset Check off Sheet completed 4/10/06 and signed by the defendant, indicated that no household member was employed or had been recently employed.

7) Exhibit D-1 reveals that \_\_\_\_\_ (a household member) received earnings each month from 1/4/06 through 7/28/06 from [REDACTED]

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

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

The Agency's responsibilities include: inform the client of his responsibilities, the process involved in establishing his eligibility...

9) West Virginia Income Maintenance Manual § 10.4, C:

This section contains policy relating income disregards and deductions and computation of and eligibility for Food Stamp benefits. It also states: To determine the coupon allotment, find the countable income and number (of persons) in the benefit group.

10) West Virginia Income Maintenance Manual § 20.2:

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 or Intentional Program Violation claim. The claim is the difference between the allotment of the AG and the coupon allotment the AG was entitled to receive.

11) 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) member(s) who committed the IPV.

12) West Virginia Income Maintenance Manual § 20.2 (C) (2):

IPV's (Intentional Program Violations) include making false or misleading statements, misrepresentations, the concealment or withholding of facts and committing any act that violates the Food Stamp Act of 1977, Food Stamp Regulations or any State statute relating to the use, presentation, transfer, acquisition, receipt, or possession of Food Stamps.

13) 7 CFR § 273.16 (e) (6) Code of Federal Regulations:

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.

## **VIII. CONCLUSIONS OF LAW:**

1) Policy directs that the applicant has a responsibility to supply correct and accurate information in order that an accurate determination of benefit eligibility can be made. Evidence reveals that the defendant failed to report household income (earnings) during the period 1/06- 8/06.

2) The agency has a responsibility to properly inform the applicant of his responsibilities and the penalties in failure to comply. Documents presented contain directives relating to recipient responsibilities and penalties. At the time of the April 10, 2006 case review, the defendant acknowledged the accuracy of information provided and the penalties for noncompliance by her signature.

3) When an individual has been issued more Food Stamps than he 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 individual received and the coupon allotment he was entitled to receive. Evidence reveals that an overissuance of Food Stamp benefits occurred during the period May 2006- thru August 2006 based on unreported earnings received by the household.

4) Intentional Violations include making false or misleading statements, misrepresentations, concealing or withholding of facts or committing any act that violates the Food Stamp Act of 1977. Evidence reveals that the defendant failed to report household earnings as required by policy and specifically when provided an opportunity during the April 10, 2006 case review. This action constitutes a withholding or concealment of facts with resulted in an overissuance of benefits- clearly a violation of the act.

5) 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. Evidence supports a finding that the defendant's concealment/withholding of information was clearly intentional. The agency provided evidence of a signed, false statement made by the defendant on April 10, 2006. The defendant at that time acknowledged responsibilities and the resulting penalties for failure to provide accurate information.

#### **IX. DECISION:**

Based on evidence presented, I find that the defendant intentionally withheld information essential in determining Food Stamp benefit level. The making of false statements or the withholding or concealment of information to secure benefits constitutes a clear violation of the regulations. Based on evidence presented, the defendant's intent was clear and the violation intentional. The Agency's request for a one (1) year disqualification is upheld.

**Only the defendant is subject to this disqualification.**

**This disqualification will begin January 1, 2007.**

#### **X. RIGHT OF APPEAL:**

See Attachment

#### **XI. ATTACHMENTS:**

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED This 18<sup>th</sup> Day of December, 2006**

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**RON ANGLIN**  
**State Hearing Examiner**