



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
PO Box 6165  
Wheeling, WV 26003

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

November 19, 2007

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

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 23, 2007. Your hearing was based on the Department of Health and Human Resources' proposal that you committed an Intentional Program Violation.

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 Stamps is based on current policy and regulations. Some of these regulations state as follows: According to Common Chapters Manual, Chapter 700, Appendix A, Section B, 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.

The information submitted at your hearing revealed: You intentionally withheld reporting Mr. \_\_\_\_\_'s income from employment at [REDACTED] and also failed to accurately report the beginning date of employment for Mr. \_\_\_\_\_'s employment at [REDACTED]. This resulted in an over issuance of Food Stamp Benefits in the amount of \$1191.00 for the months of March through May 2007.

It is the decision of the State Hearings Officer to **UPHOLD** the **PROPOSAL** of the Department that you committed an Intentional Program Violation. You will be sanctioned from the Food Stamp Program for a period of twelve (12) months. The sanction will be effective January 2008.

Sincerely,

Melissa Hastings  
State Hearing Officer  
Member, State Board of Review

cc: State Board of Review  
Teresa Smith, Repayment Investigator

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

\_\_\_\_\_,

**Defendant,**

**v.**

**Action Number: 07-BOR-1993**

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

**Respondent.**

**DECISION OF THE STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from an Administrative Disqualification Hearing concluded on October 23, 2007 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. Notification of the October 23, 2007 hearing was mailed to the Defendant on September 11, 2007 via First Class Mail as the Defendant is a current recipient of Medicaid benefits and resides at an address known to be good by the Department.

It should be noted here that the defendant was not present during the hearing.

**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:**

Teresa Smith, Repayment Investigator

Presiding at the Hearing was Melissa Hastings, State Hearing Officer and a member of the State Board of Review.

**IV. QUESTIONS TO BE DECIDED:**

The question to be decided is whether it was shown by clear and convincing evidence that the defendant, \_\_\_\_\_, committed an intentional program violation.

**V. APPLICABLE POLICY:**

WV Income Maintenance Manual Section 1.2; 1.4; 2.2; 9.1 (A) (2) (f); 10.3 CC; 20.2 and Common Chapters Manual, Chapter 700, Appendix A, Section B

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

**Department's Exhibits:**

DHS-1	Application dated 12/28/06 with Rights and Responsibilities signed 12/28/06
DHS-2	Case Comments dated 12/27/06 through 05/23/07
DHS-3	Verification checklist dated 12/29/06 and 01/23/07
DHS-4	Verification of employment and wages dated 06/25/07
DHS-5	Food Stamp Claim Determination (ESFS5) with issuance dates of 03/27/07 through 05/31/07 totaling \$1191.00
DHS-6	Notification of Intent to Disqualify (IGBR44a) dated 06/26/07 with a Waiver of Administrative Disqualification Hearing (IGBR44B) attached.
DHS-7a	WV Income Maintenance Manual Section 1.2E Client Responsibility
DHS-7b	WV Income Maintenance Manual Section 1.4L Repayment and Penalties
DHS-7c	WV Income Maintenance Manual Section 2.2B Reporting Requirements
DHS-7d	WV Income Maintenance Manual Section 9.1g and h Individuals excluded by Law
DHS-7e	WV Income Maintenance Manual Section 10.3CC Income Sources
DHS-7f	WV Income Maintenance Manual Section 20.2 Food Stamp Claims and Repayment Procedures
DHS-7g	Common Chapters Manual Chapter 700 Appendix A, Section B
DHS-8	Application dated 05/21/07 with Rights and Responsibilities signed 05/21/07
DHS-9	BEP Wage Details from RAPIDS computerized system
DHS-10	Request for an Administrative Disqualification Hearing (IG-BR-30) dated 08/21/07
DHS-11	Hearing Summary (IGBR31) dated 10/23/07

**Claimants' Exhibits:**

None

**VII. FINDINGS OF FACT:**

1) Common Chapters Manual, Chapter 700, Appendix A, Section B, indicates an

intentional program violation consists of having intentionally made a false statement, 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 statute relating to the use, presentation, transfer, acquisition, receipt or possession of food stamp coupons.

- 2) WV Income Maintenance Manual Section 9.1 (A) (2) (f) indicates the disqualification penalty for having committed an Intentional Program Violation is twelve months for the first violation, twenty-four months for the second violation, and permanent disqualification for the third violation.
- 3) WV Income Maintenance Manual Section 1.2 E Client Responsibility indicates it is the client's responsibility to provide information about his circumstances so the Worker is able to make a correct decision about eligibility.
- 4) WV Income Maintenance Manual Section 10.3CC indicates wages from employment are considered earned income when calculating eligibility for food stamps.
- 5) WV Income Maintenance Manual Section 20.2 Food Stamp Claims and Repayment Procedures indicates when an assistance group has been issued more Food Stamps than it was entitled to receive, corrective action is taken by establishing an Intentional Program Violation claim.
- 6) Defendant was in the local DHHR Office on December 28, 2006 and completed an application for Food Stamp Benefits **(DHS-1)**. She signed the Rights and Responsibilities section of the application acknowledging Question #4 which states, "I understand if I am found 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."
- 7) Testimony from the department's representative indicates the Defendant reported her last day of employment as December 2, 2006. **(DHS-1)**. The application was approved for food stamp benefits based on client's statements. The worker received a new hire alert on January 22, 2007 **(DHS-2)** indicating the defendant's husband started employment at [REDACTED] on December 27, 2006. A request for verification of wages from this employment was sent to the defendant on January 23, 2007 **(DHS-3)**. The defendant failed to respond to this request and her food stamp case was closed February 7, 2007.
- 8) Testimony from the department's representative indicates the Defendant contacted the worker on March 22, 2007 and reported that her husband applied for a job at [REDACTED] but did not get the job. As a result of defendant's statement, the worker reopened the food stamp case. **(DHS-2)**
- 9) The defendant completed a reapplication for food stamp benefits on May 21, 2007. **(DHS-8)**. Defendant advised the worker that her husband was hired on April 2, 2007 at [REDACTED]. The pay stub provided by the defendant showed an extremely large year to date wage. The worker contacted the employer on May 23, 2007 and was advised

defendant's husband started working on February 2, 2007. The Repayment Investigator sent an employment verification and wage request to the employer on June 18, 2007 **(DHS-4)**. The employer verification indicates an employment hire date of February 6, 2007 for defendant's husband with the following pays:

02-14-07	\$378
02-21-07	\$468
02-28-07	\$489
03-04-07	\$489
03-14-07	\$330
03-21-07	\$306
03-28-07	\$351
04-04-07	\$372
04-11-07	\$480
04-18-07	\$480
04-25-07	\$474
05-02-07	\$222
05-09-07	\$498
05-16-07	\$480
05-23-07	\$480
05-30-07	\$384
06-06-07	\$366
06-13-07	\$474
06-20-07	\$489

- 10) Repayment Investigator, Teresa Smith, prepared Food Stamp Claim Determination form ESFS5 **(DHS5)** indicating that defendant was issued Food Stamp benefits from March 22, 2007 through May 31, 2007 in the amount of \$1191 to which she was not entitled due to her failure to report the employment of her husband at [REDACTED]
- 11) Respondent was issued a Notification of Intent to Disqualify with a Waiver of Administrative Disqualification Hearing attached **(DHS-6)** on June 26, 2007. Defendant failed to respond to this notification.
- 12) A request for an Administrative Disqualification Hearing **(DHS-10)** was received by the Board of Review on August 23, 2007.
- 13) The facts presented during this Administrative Disqualification Hearing supports the Department's proposal, that Defendant intentionally withheld information concerning her husband's employment and wages when filing a reapplication for Food Stamp benefits on May 21, 2007. In addition, Defendant intentionally failed to report her husband's employment and wages when she made contact with the department's worker on March 23, 2007 concerning her food stamp benefits. By withholding this information from the department, the defendant received \$1191 in food stamp benefits to which she was not entitled..

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

- 1) Common Chapters Manual, Chapter 700, Appendix A, Section B, states an intentional program violation consists of having intentionally made a false statement, 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.
- 2) WV Income Maintenance Manual Section 1.2 indicates the client is responsible for reporting accurate information to the worker when making an application for benefits. Evidence is clear that the defendant intentionally withheld information concerning her husband's employment and wages on two occasions which caused her to receive food stamp benefits to which she was not entitled.
- 3) WV Income Maintenance Manual Sections 9.1 and 20.2 indicates that claimant's found to have intentionally withheld information from the agency for the first time will be disqualified from participation in the Food Stamp Program for a period of one year.
- 4) There is clear and convincing evidence that the defendant intentionally withheld accurately reporting her husband's employment and wages. By withholding this information defendant was issued Food Stamp benefits from March 2007 through May 2007 totaling \$1191 to which she was not entitled.

**IX. DECISION:**

It is the decision of this State Hearing Officer to **UPHOLD** the Department's **PROPOSAL** that the defendant committed an Intentional Program Violation. A one year disqualification period is to be applied to the defendant effective January 2008 and collection action initiated for repayment of the \$1191 overissuance.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 19th Day of November 2007.**

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**Melissa Hastings  
State Hearing Officer**