



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
P. O. Box 970  
Danville, WV 25053

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

December 21, 2007

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

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

Attached is a copy of the findings of fact and conclusions of law on the Food Stamp Administrative Disqualification Hearing held November 13, 2007 for the purpose of determining whether or not an Intentional Program Violation (IPV) occurred.

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.

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 demonstrates that you intentionally made false or misleading statements about your household income in order to receive Food Stamp benefits for which you were not entitled.

It is the decision of the State Hearing Officer to **uphold** the Agency's proposal to apply a one (1) year Food Stamp disqualification penalty against you based on an Intentional Program Violation.

Sincerely,

Cheryl McKinney  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Vickie Adkins, Raleigh DHHR

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

\_\_\_\_\_,

**Defendant,**

**v.**

**Action Number: 07-BOR-2072**

**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 13, 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. This hearing was convened on November 13, 2007.

It should be noted here that the Defendant was notified by certified restricted mail delivery of this hearing on October 16, 2007, and has failed to appear. The hearing is being held in her absence, and a decision will be issued based on the evidence presented today.

**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:**

Vickie Adkins, State Repayment Investigator, DHHR

Presiding at the Hearing was Cheryl McKinney, 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, Appendix A  
West Virginia Income Maintenance Manual ' 1.2, 1.4, 9.1, 10.4, & 20.2

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

##### **Department's Exhibits:**

DHS-1	BVRF Screen dated May 5, 2007
DHS-2	Combined Application and Review Form dated April 4, 2007
DHS-3	Rights and Responsibilities dated April 4, 2007
DHS-4	Statement dated April 17, 2007
DHS-5	Employment Data information dated April 26, 2007
DHS-6	Case Comments dated April 2007
DHS-7	West Virginia Income Maintenance Manual Chapter 1.2

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

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from Department of Health and Human Resources' (Department) State Repayment Investigator, Vickie Adkins, on August 14, 2007. The Department 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) On or about August 14, 2007, the Defendant was notified via a Notification of Intent to Disqualify (Exhibit DHS-5), that the Department had reason to believe she intentionally violated the Food Stamp Program by failing to report accurate household composition information and income during her April 4, 2007 application for food stamps. The Defendant signed Rights and Responsibilities form dated April 4, 2007 indicating she understood her responsibility to report accurate information and the penalties for failure to do so, and certified that she was giving true and correct information.
- 3) The Department obtained a signed statement (DHS-4) from the Defendant on April 17, 2007 in which she certified the following information given to be true and correct:

\_\_\_\_\_ moved in with me a few weeks ago, about April 1<sup>st</sup>. I failed to report \_\_\_\_\_ living there when I applied. I understand that I was overpaid food stamps and that will be sent to the DHHR repayment division.

- 4) Employment verification (DHS-5) from [REDACTED] Energy shows the Defendant's boyfriend earned \$3104.58 in April 2007 and listed the same address as the Defendant for his residence.
- 5) The Department's case comments (DHS-6) for April 4, 2007 indicate that the Defendant told the Department at the time of application that she lives in her future father-in-law's home and pays no shelter costs, and that her fiancé pays the utilities and gives her money.
- 6) 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 and the number in the benefit group.
- 7) West Virginia Income Maintenance Manual ' 1.2 (E) states that it is the client's responsibility is to provide information about his circumstances so the worker is able to make a correct decision about his eligibility.
- 8) West Virginia Income Maintenance Manual ' 20.2:  
When a 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.
- 9) 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, h) 1st Offense: 1 year (Disqualification)
- 10) Common Chapters Manual 700, Appendix A, Section B, 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.
- 11) Common Chapters Manual 700, Appendix A, Section G, states that the State Hearing Officer 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 as defined in Section B of this Appendix.

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

- 1) 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.
- 2) The regulations state there must be clear and convincing evidence that demonstrates the Defendant intentionally committed an Intentional Program Violation.
- 3) The Defendant clearly withheld information about household circumstances at the time of application. Although she indicated her fiancé gave her money, she did not report that he lived with her at the time of application.
- 4) Based on the evidence, a Food Stamp disqualification is appropriate.

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

The Agency's proposal to apply a one (1) years 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 21st Day of December, 2007.**

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**Cheryl McKinney  
State Hearing Officer**