



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  
March 12, 2007

**Martha Yeager Walker**  
Secretary

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

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

Attached is a copy of the findings of fact and conclusions of law on your Administrative Disqualification Hearing held February 21, 2007.

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 correctly report household composition which resulted in an overissuance of benefits during the period March 2006- September 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 May 1, 2007.

Sincerely,

Ron Anglin  
State Hearing Examiner  
Member, State Board of Review

cc: Board of Review

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

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

**v.**

**Action Number 06-BOR- 3262**

**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 March 7, 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 February 21, 2007.

**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:**

Sally Musick, Investigator, WVDHHR

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 – Food stamp Claim Determination, 3/06- 9/06  
D-2 - Combined Application and Review Form, 3/14/06  
D-3 - OFS -2 Application/Review Form, 3/6/06 with Asset/Income checklist  
D-4 – Child Protective Services Report, 8/24/06  
D-5 – Rights and Responsibilities (DFA-RR-1), 3/6/06  
D-6 – WVIMM 1.2, 2.2, 9.1, 20.1 and 20.2

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

1) An Administrative Disqualification Hearing requested by the WVDHHR Investigator, November 6, 2006. Notification of the February 21, 2006 hearing was mailed to defendant January 16, 2006. Notification was sent by 1<sup>st</sup> class mail as the agency's investigator indicated there was an active benefit case in the home. The hearing was convened as scheduled at 10:30 am. As of 10:45 the defendant had failed to appear. As is set forth in policy and the notification letter the hearing was held without the defendant in attendance.

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

3) Testimony was heard from the individuals noted in Section II above who was placed under oath.

4) Testimony on behalf of the agency reveals that the defendant received an overissuance of food Stamps in the amount of \$701 during the period 3/06 through 9/06. She reported that her daughter was living with her during this period. The defendant reapplied for benefits 3/14/06 for herself and daughter. She signed this application and screening and asset/income declarations to that affect. In 8/06, a CPS report was provided to the income maintenance worker indicating that the child in question had not been in the defendant's household since 2/06.

5) Exhibit D-1- Combined Application and Review Form of 3/14/06 was completed and signed by the defendant. The consequences in failing to report accurate information were acknowledged. She reported herself and a daughter living in the home.

6) Exhibit D-3, OFS -2 Application/Review Form, 3/6/06 with Asset/Income checklist both list the defendant and her daughter in the household and both are signed and dated by the defendant.

7) Exhibit D-4 CPS Report of 8/24/06 establishes that the child in question began residing in a household other than the defendant's in February 2006.

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 composition (number of persons living in the home) during the period March 2006 through September 2006.

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 case review completed during the period in question, 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 March 2006-thru September 2006 based on the defendant's failure to correctly report the number of person's living in 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 composition as required by policy at the time of the March 14, 2006 interview and application. 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/misrepresentation of information was clearly intentional. The agency provided evidence of a signed, false statement made by the defendant on 2 occasions. The defendant each 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.

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

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

See Attachment

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

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED This 12<sup>th</sup> Day of March, 2007**

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

# **CLAIMANT'S RECOURSE TO ADMINISTRATIVE HEARING DECISION**

**For**

**Public Assistance Hearings,  
Administrative Disqualification Hearings, and  
Child Support Enforcement Hearings**

## **A. CIRCUIT COURT**

Upon a decision of a State Hearing Officer, the claimant will be advised he may bring a petition in the Circuit Court of Kanawha County within four months (4) from the date of the hearing decision.

The Court may grant an appeal and may determine anew all questions submitted to it on appeal from the decision or determination of the State Hearing Officer. In such appeals a certified copy of the hearing determination or decision is admissible or may constitute prima facie evidence of the hearing determination or decision. Furthermore, the decision of the Circuit Court may be appealed by the client or petitioner to the Supreme Court of Appeals of the State of West Virginia.

## **B. THE UNITED STATE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

If you believe you have been discriminated against because of race, color, national origin, age, sex or handicap, write immediately to the Secretary of the United States Department of Health and Human Services, Washington, D.C. 20201.

## **C. THE UNITED STATE DEPARTMENT OF AGRICULTURE**

If you believe you have been discriminated against because of race, color, national origin, age, sex or handicap, write immediately to the Secretary of the Department of Agriculture, Washington, D.C. 20250.

IG-BR-46 (Revised 12/05)



**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
HEARING DECISION TRANSMITTAL FORM**

DATE: December 4, 2007

TO: Sally Musick, Investigator

FROM: Ron Anglin, State Hearing Examiner

RE: NAME: \_\_\_\_\_  
COUNTY: Barbour  
CATEGORY: Food Stamp -ADH/IPV

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**ATTACHED IS THE DECISION AND SUMMARY ON THE ABOVE-NAMED CASE:**

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In favor of the agency **(UPHELD)**

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**PLEASE COMPLETE THE BOTTOM OF THIS FORM AND RETURN  
ONE COPY TO THE STATE HEARING OFFICER**

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- ☐ Date Hearing decision implemented\_\_\_\_\_
- ☐ Effective Date\_\_\_\_\_
- ☐ Amount of Retroactive Payment\_\_\_\_\_
- ☐ Case Continued No Action Necessary\_\_\_\_\_
- ☐ No Action Necessary \_\_\_\_\_
- ☐ Action Not Taken (Give Reason) \_\_\_\_\_

Date\_\_\_\_\_ Signature\_\_\_\_\_

(Agency Employee)