



**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

May 4, 2007

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your administrative disqualification hearing held May 1, 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.

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 failed to report your employment at _____ Mart. You were employed at the time you completed an application 10/16/06 and did not report this information.

It is the ruling of the State Hearing Officer that you did commit and intended to commit an Intentional Program Violation. You will be disqualified from participation in the Food Stamp Program for twelve months beginning June 2007.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Edward Eye, Repayment Investigator

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

_____,

Defendant,

v.

Action Number: 07-BOR-923

**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 May 1, 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.

It should be noted here that the Defendant's benefits have been continued.

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:

Edward Eye, Repayment Investigator, DHHR

It should be noted that the Defendant, _____, did not appear for the hearing after being given proper and timely notification.

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 1.2E 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 Article 273.16C of the Federal Register
- D-2 Chapter 1.2E of the West Virginia Income Maintenance Manual
- D-3 Application and Rights & Responsibilities dated 10/16/2006
- D-4 Case Comments dated 10/16/2006
- D-5 Case Comments dated 10/25/2006 & New Hire Alert dated 10/20/2006
- D-6 Case Comments dated 10/27/2006
- D-7 Benefit Recovery Referral
- D-8 Employment Data & Wage History
- D-9 Employee Wage Data
- D-10 Food Stamp Claim Determination
- D-11 Notification of Intent to Disqualify (IG-BR-44A) and a Waiver of Disqualification Hearing (IG-BR-44)
- D-12 Appointment letter mailed 02/02/2007
- D-13 Chapter 20.2 of the West Virginia Income Maintenance Manual
- D-14 ADH Summary

VII. FINDINGS OF FACT:

- 1) The Department requested this hearing be held for the purpose of determining that the Defendant committed an Intentional Program Violation (IPV) by failing to report correct household circumstances.
- 2) The IFM Unit received a referral 10/27/2006 that the Defendant made application for WV WORKS on 10/16/2006. Found out thru DXL Alert-New Hire and speaking to employer that Defendant went to work 10/11. Did not report any income at WV WORKS application. (Exhibit D-7)

- 3) Testimony from the Repayment Investigator revealed that the Defendant has been known to the Department since June 2004 and has been informed on several occasions of the requirements and responsibility to report all income accurately and timely in order for the Department to make a correct decision regarding eligibility for benefits issued by the Department.
- 4) On October 16, 2006 the Defendant came into the office to apply for WV WORKS and food stamps. She reported on the Pre-Interviewer Screener form and application that there was no income in the household. The Defendant signed the application understanding that it was her responsibility to provide complete and truthful information, and under penalty of perjury she certified that her statements were true and correct. The Defendant also signed the Rights & Responsibilities October 16, 2006 certifying the statements were true and correct and she accepted these responsibilities. (Exhibit D-3) The caseworker noted the household had reported no income at the time of application. (Exhibit D-4)
- 5) On October 25, 2006 the caseworker received a new hire alert that the Defendant went to work on October 11, 2006 at [REDACTED] The new hire details printout shows a match date of 10/20/2006. (Exhibit D-5)
- 6) The caseworker contacted the Defendant's employer and verified the Defendant went to work 10/11/2006. She is paid \$6.00 an hour and working 24 hours per week. (Exhibit D-6)
- 7) Information provided by [REDACTED] Inc. doing business as reads in part: The Defendant was most recently hired 10/11/06 and terminated 11/14/06. Reason for termination: Employee quit. Dates paid: 10/20/06, 11/03/06 and 11/17/06. (Exhibits D-8 and D-9)
- 8) A claim has been established in the amount of \$344 for November 2006. (Exhibit D-10)
- 9) Section 1.2E of the West Virginia Income Maintenance Manual reads in part the client's responsibility is to provide information about his circumstances so the Worker is able to make a correct decision about his eligibility.
- 10) 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.
- 11) 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.

12) 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).

13) 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.
- 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) Un-refuted information from shows the Defendant was hired 10/11/2006 and worked until 11/14/2006. She applied for benefits on 10/16/2006 and did not report this employment.
- 4) This failure to report correct household income constitutes an intentional withholding of information. The evidence demonstrates that the Defendant intended to withhold this information.

IX. DECISION:

It is the finding 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 June 1, 2007. 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 4th Day of May, 2007.

**Margaret M. Mann
State Hearing Officer**