



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 W Washington St
Charleston, WV 25313
304-746-2360 ext 2227

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

May 21, 2008

Dear Ms _____:

Attached is a copy of the findings of fact and conclusions of law on the Food Stamp Administrative Disqualification Hearing held May 8, 2008 for the purpose of determining whether or not an Intentional Program Violation (IPV) occurred.

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 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 revealed that you intentionally provided false and misleading information about your household composition and income in order to receive Food Stamp benefits for which you were not entitled by law.

It is the decision of the State Hearing Officer that an Intentional Program Violation was committed by you and a disqualification penalty of one (1) year will be applied. This disqualification will begin effective June 1, 2008. .

Sincerely,

Jennifer Butcher
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Christina Saunders, State Repayment Investigator, DHHR

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

_____,
Defendant,

v.

Action Number: 08-BOR-1060

**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 May 8, 2008 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 May 8, 2008.

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:

Christine Saunders, state Repayment Investigator, DHHR

Presiding at the Hearing was Jennifer Butcher, 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 (IPV) and should be disqualified for a specified period from participation in the Food Stamp Program.

V. APPLICABLE POLICY:

7 CFR ' 273.16 Code of Federal Regulations
Common Chapters Manual Chapter 700, Appendix A
West Virginia Income Maintenance Manual ' 1.2E, & 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 BVRF referral dated August 15, 2007
- D-2 WV Income Maintenance Manual Chapter 1.2E Client Responsibility
- D-3 ES-FS-5 Food Stamp Claim Determination Sheet
- D-4 Code of Federal Regulations CITE: 7CFR273.16c
- D-5 ES-2 Application dated January 2, 2007
- D-6 Rights and Responsibilities signed and dated January 2, 2007
- D-7 Case comments dated January 2, 2007
- D-8 Case comments dated March 9, 2007
- D-9 Income verification from _____ dated July 20, 2007
- D-10 WV Income Maintenance Manual Chapter 2.2
- D-11 WV Income Maintenance Manual Chapter 20.6
- D-12 IG-BR-44a Notification of Intent to Disqualify dated December 7, 2007
- D-13 WV Income Maintenance Manual Chapter 20.2
- D-14 ADH Hearing Summary

VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from State Repayment Investigator, Christina Saunders, on March 18, 2008. 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) Notification of the hearing was mailed to the Defendant on March 26, 2008 via regular mail. The Defendant was actively receiving benefits so restricted certified delivery did not apply.
- 3) The hearing convened as scheduled at 1:00 PM and as of 1:15 PM, the Defendant failed to appear. As set forth in regulations [7 CFR 273.16 (e) (4)], and State Policy (West Virginia Department of Health and Human Resources Common Chapters Manual, Chapter 700, Appendix A Part F), the hearing was conducted without the Defendant in attendance.
- 4) According to the Department's testimony, the Defendant completed an application for Food Stamp benefits on January 2, 2007, which was submitted as Exhibit DHS-5, Combined

Application and Review Form (CAF) signed by the Defendant on January 2, 2007. Exhibit DHS-7 according to worker's case comments the Defendant reported a 5 person household, _____ and 2 children and 2 grandchildren. She also reported no earned or unearned income, HUD pays shelter and she pays utilities, also stated that family had been helping lately.

- 5) Department's Exhibit DHS-6, DFA-RR-1, is the Rights and Responsibilities form completed and signed by the Defendant on the day of application of January 2, 2007. The Defendant marked "yes" to item #4 on page 2 which states:

I understand if I am found (by court action or an administrative disqualification hearing) to have committed an act of intentional program violation, I will not received 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.

By signing the DFA-RR-1, the Defendant certified that he/she read, understood, and accepted the Rights and Responsibilities and that all of the information he provided was true and correct.

- 6) Evidence supports the Departments position that Defendant did not report her employment at _____ at the time of her Food Stamp application on January 2, 2007. Exhibit DHS-9 shows the Defendant was employed by and receiving earnings from _____ from November 15, 2006 until March 21, 2007. The document further revealed that the Defendant received a pay on January 5, 2007, just 3 days after her application.
- 7) 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)
- 8) Common Chapters Manual 700, Appendix A, 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.

VIII. CONCLUSIONS OF LAW:

- 1) The evidence reveals that the Defendant withheld the fact that she was currently employed and receiving earnings from _____ at the time of her January 2, 2007 application for Food Stamps.
- 2) 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.

- 3) There is clear and convincing evidence that the Defendant committed an intentional program violation as defined in the Food Stamp policy and regulations.
- 4) In accordance with Food Stamp policy and regulations, an Intentional Program Violation has been committed and a disqualification penalty must be applied. The disqualification for a first time offense is twelve months (one year).

IX. DECISION:

Intentionally providing false or misleading statements or misrepresenting facts to secure Food Stamp benefits constitutes a clear violation of the regulations. Based on evidence presented, I find the violation intentional. The Defendant will be disqualified from participation in the Food Stamp Program for twelve (12) months beginning July 2008.

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X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 21th Day of May , 2008.

**Jennifer Butcher
State Hearing Officer**