



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

June 24, 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 27, 2008 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 demonstrated that you intentionally concealed or withheld facts about your circumstances 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 Henson  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review/Brian Shreve, Boone DHHR

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

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

**v.**

**Action Number: 08-BOR-1279**

**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 27, 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 27, 2008.

It should be noted here that the Defendant was notified by first class mail delivery of this hearing on April 11, 2008, and has failed to appear. The Defendant is currently receiving benefits from the Department and her address has been validated. 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:**

Brian Shreve, State Repayment Investigator, DHHR

Presiding at the Hearing was Cheryl Henson, 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 one year 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, & 20.2

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

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

- D-1 Federal Regulations 273.16
- D-2 Benefit Recovery Referral Screen dated April 18, 2008
- D-3 Food Stamp Determination Forms
- D-4 Case Comments from Rapids
- D-5 Income Verification from \_\_\_\_\_
- D-6 Combined Application and Review Form dated November 28, 2006
- D-7 Case Comments from Rapids
- D-8 Combined Application and Review Form dated May 14, 2007
- D-9 Case Comments from Rapids
- D-10 Information from FACTS system
- D-11 WV Income Maintenance Manual Section 1.2
- D-12 WV Income Maintenance Manual Section 20.2
- D-13 WV Income Maintenance Manual Section 20.6
- D-14 Notification letter dated March 5, 2008

**Claimant's Exhibits:**

None

**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) on April 21, 2008. The Department contends that the Defendant has committed an Intentional Program Violation and intentionally withheld or concealed facts regarding her household income in order to receive food stamp benefits, 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 March 5, 2008, the Department sent the Defendant a Notification of Intent to Disqualify (D-15) form, indicating that the Department had reason to believe she violated the Food Stamp Program by intentionally violating a Food Stamp Program rule. The form also included the following:

You failed to report your earned income (\_\_\_\_\_) in the household. Your household was issued to [sic] many food stamps because your income from \_\_\_\_\_ was not counted.

- 3) The Department presented evidence to show (D-4) that on November 8, 2007 the Defendant was actively receiving food stamps when she completed a review for Food Stamps. The case comments indicated (D-4) that she reported "zero" income at this time. The Department's caseworker checked computer screens and found that [REDACTED] was employed with \_\_\_\_\_. The caseworker updated the income screens and sent a referral to the Repayment unit after determining the Defendant had received too many food stamps in prior months.
- 4) The Department's Repayment worker verified (D-5) the Defendant began receiving income from \_\_\_\_\_ in August 2005. The Defendant did not report this income. The Defendant has received benefits from the Department since September 2005 and has signed numerous Rights and Responsibilities forms acknowledging that she understands her responsibility to provide information about her circumstances to ensure accurate benefits are issued. The Claimant completed a face to face WV Works Cash Assistance review on November 28, 2006 and failed to report the income, and again on May 15, 2007 she completed a Food Stamp review failing to report the income.
- 5) 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.

6) 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.

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, 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.

14) 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) Evidence is clear in that the Defendant was well informed of her responsibility to report her circumstances accurately during application and review, and had two clear opportunities to report that her employment income from \_\_\_\_\_. She clearly withheld the information.

**IX. DECISION:**

The Agency's proposal to apply a one (1) year 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 24th Day of June, 2008.**

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**Cheryl Henson  
State Hearing Officer**