



**State of West Virginia**  
**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**  
**Office of Inspector General**  
**Board of Review**  
**1027 N. Randolph Ave.**  
**Elkins, WV 26241**

**Joe Manchin III**  
**Governor**

**Martha Yeager Walker**  
**Secretary**

September 11, 2008

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

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

Attached is a copy of the findings of fact and conclusions of law on the Food Stamp Administrative Disqualification Hearing held September 9, 2008 to determine whether you committed an Intentional Program Violation (IPV).

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 Stamps. 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)

Information submitted at the hearing reveals that you intentionally withheld information concerning your household income while receiving Food Stamp benefits.

It is the decision of the State Hearing Officer that you committed an Intentional Program Violation and a one-year disqualification penalty will be applied.

Sincerely,

Pamela L. Hinzman  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Leonard Madia, Repayment Investigator, DHHR

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

\_\_\_\_\_,

**Defendant,**

**v.**

**Action Number: 08-BOR-1321**

**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 September 11, 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 originally scheduled and conducted with the Repayment Investigator on June 17, 2008 after the Defendant failed to appear. The hearing was rescheduled after the Defendant was granted good cause for failure to attend.

All persons giving testimony were placed under oath.

**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 an EBT card to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

### **III. PARTICIPANTS:**

\_\_\_\_\_, Defendant  
Leonard Madia, State Repayment Investigator, DHHR

Presiding at the hearing was Pamela L. Hinzman, 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 from participation in the Food Stamp Program for a period of one (1) year.

### **V. APPLICABLE POLICY:**

7 CFR Section 273.16 USDA Code of Federal Regulations  
Common Chapters Manual Chapter 700, Appendix A  
West Virginia Income Maintenance Manual Sections 1.2E, 9.1g, 9.1, 2g, and 20.2  
21 U.S.C. 802 (44)

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

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

- D-1 Wage History/Employment Data from \_\_\_\_\_'s Child Care Center
- D-2 Redetermination form dated October 29, 2007 and Income/Asset Check Off Sheet
- D-3 Food Stamp Claim Determination Form
- D-4 West Virginia Income Maintenance Manual Section 1.2E
- D-5 Rights and Responsibilities signed October 29, 2007

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

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from State Repayment Investigator Leonard Madia on May 1, 2008. The investigator contends that the Defendant committed an Intentional Program Violation (IPV) and recommends that the Defendant be disqualified from participation in the Food Stamp Program for a period of one (1) year.
- 2) Information submitted by the Department indicates that the Defendant completed a Food Stamp redetermination (D-2) on October 29, 2007 and reported no income in the household. The Defendant also completed an Income/Asset Check Off Sheet (D-2) on October 29, 2007, checking "no" to the question "Does anyone in your household receive income from any of these sources?" and "no" to the question "Is anyone in your household

currently employed or on strike or has anyone recently been employed (including goods/free rent in return for work (in kind income) etc.?” The Defendant checked “yes” on a Rights and Responsibilities form (D-5) indicating that she understood the penalties for committing an Intentional Program Violation and that she would have to repay benefits received in error if she provided incorrect or false information to the Department.

- 3) The Repayment Investigator provided Exhibit D-1, Wage History and Employment Data from \_\_\_\_\_’s Child Care Center. This information indicates that the Claimant was hired by the center on August 28, 2007 and her employment was terminated on January 24, 2008. The documentation also reveals that the Defendant received her first paycheck on September 7, 2007. The Repayment Investigator testified that the Defendant’s case is considered a Limited Reporting Case, therefore she was not required to report her income at its onset. However, he contended that the Defendant was required to report the income at her October 29, 2007 Food Stamp redetermination and failed to do so.
- 4) The Repayment Investigator testified that, due to the unreported income, the Defendant received an over issuance of \$393 in Food Stamps for the period of November 2007 through January 2008. This claim was calculated on a Food Stamp Claim Determination Form (D-3).
- 5) The Defendant testified that she had provided copies of her pay stubs to the Department in November 2007 and contended that the information was misplaced at the office’s front desk. She testified that she had hurriedly completed the Income/Asset Check Off Sheet and checked “no” to the income questions in error. She also testified that she had informed her worker of the employment and that the Department should have known about the employment as she receives DHHR day care benefits for her child. The Defendant contended that she will be unable to feed her son if her Food Stamps are reduced/terminated.
- 6) West Virginia Income Maintenance Manual Section 1.2E (D-4) states that the client’s responsibility is to provide information about his/her circumstances so the worker is able to make a correct decision about his/her eligibility.
- 7) West Virginia Income Maintenance Manual Section 20.2:

When an 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.

8) West Virginia Income Maintenance Manual Section 20.6, 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: (Section 9.1, A, 2, g) 1st Offense: 1 year (Disqualification).

- 9) 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.
- 10) Common Chapters Manual 700, Appendix A, Section G (The Decision) 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 Appendix A.

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

- 1) Policy states that when an 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.
- 2) If it is determined that an Intentional Program Violation has been committed, an appropriate disqualification penalty is imposed on the Assistance Group. Policy dictates that the penalty for a first offense IPV is a one-year disqualification from the Food Stamp Program for the Assistance Group member who committed the IPV.
- 3) Evidence reveals that the Defendant began working at \_\_\_\_\_'s Child Care Center on August 28, 2007 and failed to report this income- as observed on two Department documents- during a Food Stamp redetermination on October 29, 2007.
- 4) The Department is, therefore, correct in its proposal to impose an Intentional Program Violation.

### **IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the Department's proposal to impose an Intentional Program Violation penalty.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 11th Day of September, 2008.**

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**Pamela L. Hinzman**  
**State Hearing Officer**