



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
Post Office Box 1736  
Romney, WV 26757

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

July 31, 2008

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

Dear Ms. \_\_\_\_\_,

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 15, 2008. Your hearing was based on the Department of Health and Human Resources' claim that you had committed an intentional program violation of the Food Stamp program.

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: 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 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 regulations, or any statute relating to the use, presentation, transfer, acquisition, receipt, or possession of Food Stamp benefits. (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 9.1,A,2,g of the WV Income Maintenance Manual and 7 CFR Section 273.16 .

The information submitted at your hearing did conclude that you committed an intentional program violation by exchanging your Food Stamp benefits for cash.

It is the decision of the State Hearings Officer to **uphold** the proposed action of the Department to apply a Food Stamp Sanction to your case for an intentional program violation.

Sincerely,

Sharon K. Yoho  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Karen Crossland, Repayment Investigator

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

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

**v.**

**Action Number: 08-BOR-1387**

**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 a hearing concluded on July 15, 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 Administrative Disqualification hearing was convened on July 15, 2008 on a request, filed by the Agency on May 15, 2008.

It should be noted here that any adverse action of the agency has been postponed pending a hearing decision. The claimant did not appear for the hearing after being properly notified of the hearing date and time. The hearing was held in her absence.

**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 food stamp benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

### **III. PARTICIPANTS:**

Karen Crossland, Repayment Investigator  
[REDACTED] witness for the Department

Presiding at the Hearing was Sharon K. Yoho, State Hearing Officer and a member of the State Board of Review.

### **IV. QUESTIONS TO BE DECIDED:**

The question to be decided is whether it was shown by clear and convincing evidence that the defendant has committed an act of intentional program violation.

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

Common Chapters Manual, Chapter 700, Appendix A, Section B  
7 Code of Federal Regulations Section 273.16  
1977 Food Stamp Act. Sec. 15  
West Virginia Maintenance Manual Section §1.4; 9.1; and 20.2

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

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

- D-1 Rights and Responsibilities signed by defendant dated August 13, 2007
- D-2 WV Income Maintenance Policy 9.1
- D-3 WV Income Maintenance Policy 20.1

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

- 1) The Department received a report on March 18, 2008, that the defendant had sold \$100. worth of Food Stamp benefits for \$50. cash in February 2008.
- 2) The defendant completed an application or review of her Food Stamp benefits on August 13, 2007. At this time, she was made aware of her rights and responsibilities regarding the Food Stamp program. Exhibit D-1, on page one, the defendant checked (Yes) to statement 1) "I understand that Food Stamp benefits are to be used by my family and me to purchase food or seeds. I cannot sell my Food Stamp benefits or use someone else's benefits for myself. The Food Stamp benefits will not be used for any other purpose." She checked (Yes) to statement 4) "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 receive 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."

- 3) In February 2008, the defendant sold \$100. worth of Food Stamp benefits for \$50. cash from the Department's witness. The defendant gave this person her EBT card and her pin# to use in order to obtain \$100. worth of groceries. The defendant, in March 2008, took \$50. cash from this individual again and agreed to return to take her to the grocery store to obtain \$100. in groceries. She did not follow up to take the witness to the grocery store, but did keep her \$50.
- 4) The Department became aware if this sale of Food Stamp benefits on March 18, 2008. The caseworker referred the issue to the Claims and Collections unit. The Repayment Investigator for [REDACTED] County requested this Administrative Disqualification Hearing to confirm that the defendant had committed a Food Stamp violation.
- 5) The defendant was advised of the date and time for this hearing and she failed to appear. The Repayment Investigator testified that this was the client's first violation of Food Stamp program rules.
- 6) **WV Income Maintenance Manual Policy § 1.4, states:** Individuals who have committed an Intentional Program Violation (IPV) are ineligible for a specified time, determined by the number of previous (IPV) disqualifications.
- 7) **WV Income Maintenance Manual Policy § 20.2 states:** Intentional Program Violations include making false or misleading statements, misrepresentations, concealing or withholding information, and committing any act that violates the Food Stamp Act of 1977, Food Stamp regulations, or any State statute related to the use, presentation, transfer, acquisition, receipt, or possession of Food Stamps.
- 8) **According to Common Chapters Manual, Chapter 700, Appendix A, Section B,** 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.
- 9) **According to policy in WV Income Maintenance Manual Section 9.1,A,2,g,** the disqualification penalty for having committed an Intentional Program Violation is twelve months for the first violation, twenty-four months for the second violation, and permanent disqualification for the third violation.
- 10) **7 Code of Federal Regulations Section 273.16 states:**

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).

11) **1977 FOOD STAMP Act, Sec. 15.**

**VIOLATIONS AND ENFORCEMENT**

(c) Whoever presents, or causes to be presented, coupons for payment or redemption of the value of \$100 or more, knowing the same to have been received, transferred, or used in any manner in violation of the provisions of this Act or the regulations issued pursuant to this Act shall be guilty of a felony upon conviction thereof.

**VIII. CONCLUSIONS OF LAW:**

- 1) The transfer of Food Stamp benefits for payment clearly violates the Food Stamp Act of 1977 as provided under Sec. 15 of that Act. Chapter 20.2 of the Income Maintenance Manual clearly states that an Intentional Program Violation includes any act that violates the Food Stamp Act of 1977.
- 2) Policy 1.4 and 9.1 stipulates that if an intentional program violation has been committed, a disqualification penalty must be applied. The disqualification for a first time offense is twelve months.
- 3) Exhibit D-1 clearly supports that the defendant was made aware of her rights and Responsibilities as a recipient of Food Stamp benefits. Her signature confirms that she was fully aware that she was not to sell Food Stamp benefits.
- 4) Evidence and testimony is clear and convincing that the defendant has committed an intentionally program violation by selling or trafficking her Food Stamp benefits in February 2008

**IX. DECISION:**

It is the finding of this Hearing Officer that the defendant did commit an intentional program violation, IPV. It is the ruling of this Hearing Officer to **uphold** the Department's proposed action to impose a 12-month sanction for this IPV. This sanction is to begin on September, 2008.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 31st Day of July 2008.**

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**Sharon K. Yoho**  
**State Hearing Officer**