



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

August 20, 2008

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 8, 2008 for the purpose of determining whether or not an Intentional Program Violation occurred requiring a repayment of Food Stamps.

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 which was submitted at your hearing revealed that you intentionally misrepresented your household composition at your Food Stamp application and received benefits for which you were not entitled.

It is the decision of the State Hearings Officer to **uphold** the proposal of the Department to impose an Intentional Program Violation and a repayment of Food Stamps.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

Cc: Erika Young, Chairman, Board of Review
Amy Samples, Repayment Investigator

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

_____,
Defendant,

v.

Action Number: 08-BOR-1529

**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 a fair hearing concluded on August 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 fair hearing was convened on August 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:

Amy Samples, Repayment Investigator

Presiding at the Hearing was Kristi Logan, 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 or not an Intentional Program Violation occurred requiring a repayment of Food Stamps.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual § 1.2, 9.1 and 20.2
Code of Federal Regulations- 7 CFR ' 273.16

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Food Stamp Claim Determination Form
- D-2 Food Stamp Claim Calculation Sheet
- D-3 Food Stamp Allotment Determination (EFAD) Screen from Rapids Computer System
- D-4 Food Stamp Issuance History/Disbursement (IQFS) Screen from Rapids Computer System
- D-5 Custody Preliminary Order dated November 15, 2007
- D-6 Combined Application Form and Rights and Responsibilities Form dated December 4, 2007
- D-7 West Virginia Income Maintenance Manual § 1.2 E
- D-8 West Virginia Income Maintenance Manual § 9.1 A
- D-9 West Virginia Income Maintenance Manual § 20.2
- D-10 Code of Federal Regulations- 7 CFR ' 273.16
- D-11 Department's Case Summary

Defendant's Exhibits:

- C-1 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' State Repayment Investigator, Amy Samples, on June 9, 2008. The Department contends that the Defendant has committed an Intentional Program Violation (IPV) and is recommending that the Defendant be disqualified from participation in the Food Stamp Program for a period of one (1) year and a repayment of Food Stamps received for which she was not eligible for.
- 2) The Defendant was notified by a Notification of Intent to Disqualify letter dated April 14, 2008 that the Department had reason to believe she intentionally violated the Food Stamp program by failing to report accurate household composition at application. The result was an overpayment of \$464 in Food Stamps.
- 3) Defendant applied for Food Stamps on December 4, 2007. At the interview, Defendant reported herself, her husband and her two (2) children as living in the household. Food Stamps for the Defendant's household were confirmed at that time.

- 4) The interviewing caseworker discovered after the application was completed that Defendant's daughter, [REDACTED] had been removed from the Defendant's household and placed in the Department's legal and physical custody.

Ms. Samples presented a court order dated November 15, 2007 into evidence showing that _____ was removed from her parents' custody on November 9, 2007 (D-5). Defendant's daughter had left her household prior to the Food Stamp application on December 4, 2007.

- 5) The Department contends that Defendant was required by policy to report accurate household composition at application. Defendant has been receiving Food Stamps since 1997 and is aware of the need to report accurate household information. Defendant's daughter had been out of the household for a month by the time of Defendant applied for Food Stamps.

- 6) West Virginia Income Maintenance Manual § 1.2 E states:

The client's responsibility is to provide information about his circumstances so the Worker is able to make a correct decision about his eligibility. When the client is not able to provide the required verification, the Worker must assist him. The client must be instructed that his failure to fulfill his obligation may result in one or more of the following actions:

- Denial of application
- Closure of the active Assistance Group (AG)
- Removal of the individual from the AG
- Repayment of benefits
- Reduction in benefits

- 7) West Virginia Income Maintenance Manual § 9.1 A(1) states:

The Food Stamp AG must include all eligible individuals who both live together and purchase and prepare their meals together.

When an individual, who is included in the AG, is absent or is expected to be absent from the home for a full calendar month, he is no longer eligible to be included in the AG, and must be removed after proper notice.

- 8) West Virginia Income Maintenance Manual § 20.2 states:

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 an Intentional Program Violation (IPV) claim. The claim is the difference between the coupon entitlement of the AG and the coupon allotment the AG was entitled to receive.

- 9) Code of Federal Regulations- 7 CFR ' 273.16 states:

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 coupons.

VIII. CONCLUSIONS OF LAW:

- 1) In order for an Intentional Program Violation to be established, it must be shown by clear and convincing evidence that the Defendant intentionally made a false statement or withheld or concealed facts from the Department.
- 2) Per policy, Defendant was required to report accurate household information at her Food Stamp application in December 2007. Defendant reported her daughter [REDACTED] as residing in her household when she had been in the Department's custody since November 2007.
- 3) Defendant made a false statement at application and intentionally misrepresented her household's composition. As a result, Defendant was issued Food Stamps for which she was not entitled to receive. Defendant will be required repay the Food Stamp overissuance of \$464.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's proposal of an Intentional Program Violation and a repayment of \$464 in Food Stamps.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 20th Day of August, 2008.

Kristi Logan
State Hearing Officer