



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

September 30, 2008

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

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 15, 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 withheld information regarding your employment from the Department at your Food Stamp application in November 2007.

It is the decision of the State Hearings Officer to **uphold** the decision of the Department to impose an Intentional Program Violation and a repayment of Food Stamps of \$147.

Sincerely,

Kristi Logan  
State Hearings Officer  
Member, State Board of Review

Cc: Erika Young, Chairman, Board of Review  
Rusty Udy, Repayment Investigator

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

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

**v.**

**Action Number: 08-BOR-1843**

**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 September 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 fair hearing was convened on September 15, 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:**

Rusty Udy, 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 and 20.1  
Code of Federal Regulations § 273.16

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

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

DHS-1 Department's Hearing Summary  
DHS-2 Food Stamp Claim Determination Form  
DHS-3 Food Stamp Calculation Sheet  
DHS-4 Food Stamp Issuance/Disbursement Screen (IQFS) from Rapids Computer System  
DHS-5 Food Stamp Allotment Determination Screen (EFAD) from Rapids Computer System  
DHS-6 Case Members History (AQCM) from Rapids Computer System  
DHS-7 Case Comments (CMCC) from Rapids Computer System  
DHS-8 Employer Verification Form from \_\_\_\_\_'s \_\_\_\_\_ Shop  
DHS-9 Employment Screen (AFEI) from Rapids Computer System  
DHS-10 Combined Application Form and Rights and Responsibilities Form dated November 9, 2007  
DHS-11 Pre-Hearing Conference Appointment Letter  
DHS-12 Administrative Disqualification Hearing Waiver (unsigned)  
DHS-13 West Virginia Income Maintenance Manual § 1.2 E  
DHS-14 West Virginia Income Maintenance Manual § 20.1  
DHS-15 Code of Federal Regulations § 273.16  
DHS-16 Notification Letter dated November 13, 2007

##### **Defendant's Exhibits:**

D-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, Rusty Udy, on August 4, 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 July 17, 2008 that the Department had reason to believe she intentionally violated the Food Stamp program by failing to report accurate household income at application. The result was an overissuance of \$147 in Food Stamps.
- 3) Defendant applied for Food Stamps on November 9, 2007. Defendant reported no income for her household at application and Food Stamps were approved for November 2007 and ongoing (DHS-7).
- 4) The Department discovered in December 2007 that Defendant had been employed at the time of her Food Stamp application. Mr. Udy presented into evidence verification of employment from \_\_\_\_\_'s \_\_\_\_ Shop showing a hire date of November 1, 2007 (DHS-8). Her first pay received from \_\_\_\_\_'s \_\_\_\_ Shop was on November 7, 2007 for \$120. Defendant was paid \$120 weekly until she left employment there in February 2008.
- 5) Mr. Udy also presented the Combined Application Form signed on November 9, 2007 at Defendant's Food Stamp application and the approval notification letter dated November 13, 2007 (DHS-10 and DHS-16). Defendant signed the application form that stated she had no income and the approval notification letter that was issued also showed no income for Defendant. Defendant intentionally withheld accurate income information at her Food Stamp application.

- 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 § 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.

- 8) 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 November 2007. Defendant reported no income when in fact she was employed and had already received her first paycheck from \_\_\_\_\_'s \_\_\_\_ Shop.
- 3) Defendant made a false statement at application and intentionally withheld information regarding her household's income. As a result, Defendant was issued Food Stamps for November 2007 and December 2007 which she was not entitled to receive. Defendant will be required repay the Food Stamp overissuance of \$147.

#### **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 a Food Stamp overissuance of \$147. Repayment arrangements must be made, as specified on the Notice of Food Stamp overissuance, within 30 days from the date of this decision.

#### **X. RIGHT OF APPEAL:**

See Attachment

#### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 30<sup>th</sup> Day of September, 2008.**

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**Kristi Logan**  
**State Hearing Officer**