



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
2699 Park Avenue, Suite 100
Huntington, WV 25704

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

October 1, 2008

Dear _____:

Attached is a copy of the findings of fact and conclusions of law on the Food Stamp Administrative Disqualification Hearing held April 17, 2008 for the purpose of determining whether an Intentional Program Violation (IPV) was committed by you.

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)

Information submitted at the hearing reveals that you intentionally provided false and misleading information about your household income in order to receive Food Stamp benefits for which you were not entitled.

It is the decision of the State Hearing Officer that an Intentional Program Violation was committed by you and a disqualification penalty of one (1) year will be applied. Your disqualification from the Food Stamp program will begin effective November 1, 2008.

Sincerely,

Todd Thornton
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Marshall Daniels, Repayment Investigator

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

_____,
Defendant,

v.

Action Number: 07-BOR-2658

**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 October 1, 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 April 17, 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:

Marshall Daniels, Repayment Investigator

Presiding at the Hearing was Todd Thornton, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The questions to be decided are whether the Defendant committed an Intentional Program Violation (IPV) and should be disqualified for a specified period from participation in the Food Stamp Program.

V. APPLICABLE POLICY:

7 CFR §273.16 USDA Code of Federal Regulations
Common Chapters Manual, Chapter 700
West Virginia Income Maintenance Manual, Chapter 1.2
West Virginia Income Maintenance Manual, Chapter 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Benefit Recovery Referral dated July 3, 2007
- D-2 BEP Wage Details Screen Print
- D-3 Wage verification from [REDACTED] Services
- D-4 Combined Application and Review Form (CAF) dated July 7, 2006
- D-5 Application for West Virginia Clothing Allowance dated July 5, 2006
- D-6 CAF dated January 4, 2007
- D-7 CAF dated July 2, 2007
- D-8 Food Stamp Claim Determination form
- D-9 Food Stamp Allotment Determination Screen Print; Food Stamp Claim Calculation Sheets
- D-10 West Virginia Income Maintenance Manual, Chapter 20.2
- D-11 West Virginia Income Maintenance Manual, Chapter 9.1, A, 2, h

VII. FINDINGS OF FACT:

- 1) On July 3, 2007, a referral (Exhibit D-1) for overissuance of Food Stamps was sent to the Department's Investigations and Fraud Management (IFM) Unit. The referral alleges that the Defendant withheld information about her wages from employment. This Administrative Disqualification Hearing was subsequently requested by the Department to determine if the alleged actions of the Defendant constitute an Intentional Program Violation.
- 2) The hearing convened as scheduled at 1:30 p.m., and as of 1:45 p.m., the Defendant failed to appear. As set forth in regulations [7 CFR 273.16(e)(4)], and State Policy (West Virginia Department of Health and Human Resources Common Chapters Manual, 740.20), the hearing was conducted without the Defendant in attendance.
- 3) The Code of Federal Regulations, 7 CFR §273.16(c), defines an Intentional Program Violation (IPV) as:

(c) Definition of intentional Program violation. 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).

- 4) The Department presented a computer-generated wage match that indicated employment by the Defendant (Exhibit D-2). Wage verification was sent by the Repayment Investigator to [REDACTED] Services, Inc., on August 27, 2007 and was returned by the employer with a printout verifying the Defendant's wages (Exhibit D-3). The exhibit shows that the Defendant was working at the same time she was receiving Food Stamps.
- 5) The Department presented applications from the Defendant (Exhibits D-4, D-5, D-6, and D-7) dated July 7, 2006, July 5, 2006, January 4, 2007, and July 2, 2007. These applications are all signed by the Defendant, list the unearned income in the household, but make no mention of earned income in the household at that time. Three of the documents (Exhibits D-4, D-6, and D-7) explicitly state that the Defendant reported no work hours in the current month or two prior months. Exhibit D-5 is a mail-in application for a West Virginia Clothing Allowance, and instructions under the Household Income section state, in pertinent part:

Use one line for each type of income. If one person has 2 types of income, list them separately. List all types of income like **work**, child support, alimony, SSI, Workers' Comp., etc. Enter the amount BEFORE taxes and deductions. Then attach proof of income such as **pay stubs**, statement of earnings, award letters, tax returns, etc. (emphasis added)

These exhibits show four different times that the Defendant withheld wage information and made false statements about her employment.

- 6) The Department presented forms to show the Food Stamp overissuance claim resulting from the Defendant's unreported earnings (Exhibit D-8) and the calculation of the claim (Exhibit D-9). These documents show that the Defendant received more Food Stamps than she would otherwise have received by withholding information regarding her employment and wages.
- 7) The West Virginia Income Maintenance Manual, Chapter 9.1, A, 2, h, states:

h. Intentional Program Violation (IPV)

Persons who have been found guilty of an IPV are disqualified as follows:

- 1st offense: 1 year
- 2nd offense: 2 years
- 3rd offense: Permanent

VIII. CONCLUSIONS OF LAW:

- 1) The Department provided thorough evidence that the Defendant falsely reported her employment and withheld wage information. The wage verification from the employer shows earnings for the Defendant at the same time that no earned income was reported in applications or reviews completed by the Defendant.
- 2) The Department also clearly established the intent of the Defendant to make this false statement for the purpose of receiving Food Stamps to which she would not have otherwise been entitled. The Department showed that the Defendant signed four (4) applications or reviews in which no earned income was reported and work history was reported as zero (0) hours in the month of application/review and two months prior. The Department determined that this action caused an overissuance in the Defendant's Food Stamp benefits. With clear and convincing evidence, the Department has shown an intentional withholding of information on the part of the Defendant to receive Food Stamps that she was not entitled to receive, and was correct in its determination that an IPV was committed by the Defendant.

IX. DECISION:

Intentionally making a false or misleading statement or misrepresenting facts to secure food Stamp benefits constitutes a clear violation of the regulations. Based on the evidence presented, I find the violation intentional.

The Agency's proposal to apply a Food Stamp disqualification is **upheld**. The Defendant will be disqualified from the Food Stamp program for a twelve (12) month period to begin effective November 1, 2008.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ Day of October, 2008.

**Todd Thornton
State Hearing Officer**