



**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**

July 25, 2009

-----  
-----  
-----

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your Supplemental Nutrition Assistance Program (SNAP) Administrative Disqualification Hearing held July 20, 2009 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 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 Section 20.2 and Code of Federal Regulations-7 CFR Section 273.16)

Information submitted at the hearing reveals that you withheld information about your recurring lump sum income when applying for SNAP (formerly Food Stamp) benefits.

It is the decision of the State Hearing Officer that you committed an Intentional Program Violation and a 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  
Karen Crossland, Repayment Investigator, DHHR

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

-----,

**Defendant,**

**v.**

**Action Number: 09-BOR-1161**

**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 July 25, 2009 for -----. This hearing was held on July 20, 2009 in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. The hearing was originally scheduled for July 14, 2009, but was continued at the request of the Department.

All persons giving testimony were placed under oath.

**II. PROGRAM PURPOSE:**

The purpose of the Supplemental Nutrition Assistance Program (SNAP), formerly 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  
Karen Crossland, 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 SNAP (formerly Food Stamp Program) for a period of one (1) year.

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

7 CFR Section 273.16 USDA Code of Federal Regulations  
WVDHHR Common Chapters Manual Chapter 700, Appendix A  
West Virginia Income Maintenance Manual Sections 1.2E, 9.1, 10.4, D, 11, and 20.2

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

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

- D-1 Food Stamp Claim Determination Form (August 2006- January 2007)
- D-2 Food Stamp Claim Determination Form (February 2007-May 2008)
- D-3 Income verification
- D-4 Food Stamp application with Rights and Responsibilities dated August 3, 2006
- D-5 Food Stamp application with Rights and Responsibilities dated January 11, 2007
- D-6 Food Stamp application with Rights and Responsibilities dated August 14, 2007
- D-7 Food Stamp application with Rights and Responsibilities dated January 14, 2008
- D-8 West Virginia Income Maintenance Manual Section 1.2E
- D-9 West Virginia Income Maintenance Manual Section 9.1g
- D-10 West Virginia Income Maintenance Manual Sections 20.1 and 20.2

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

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from State Repayment Investigator Karen Crossland on May 7, 2009. The investigator contends that the Defendant committed an Intentional Program Violation and recommends that the Defendant be disqualified from participation in the Supplemental Nutrition Assistance Program (formerly Food Stamp Program) for a period of one (1) year.
- 2) Information submitted by the Department indicates that the Defendant completed a Food Stamp application (D-4) on August 3, 2006, indicating on Page 5 of the application that her only income was from Unemployment Compensation. The Defendant's signature is listed on Page 7 of the application, attesting that she provided accurate information to the Department. The Defendant also signed Page 8 of the Rights and Responsibilities form, indicating that she had read the form, understood the statements, and provided true and correct information.

- 3) On January 11, 2007, the Defendant completed a Food Stamp redetermination (D-5), indicating that her Unemployment Compensation benefits had been terminated and that she had no income. She again signed the redetermination form and Rights and Responsibilities.
- 4) On August 14, 2007, the Defendant reapplied for Food Stamps (D-6), reported zero income, and signed the application and Rights and Responsibilities.
- 5) The Defendant completed a case redetermination on January 14, 2008 (D-7) and reported that the only household income was [REDACTED] salary from [REDACTED]. The Defendant again signed the application and Rights and Responsibilities.
- 6) On July 1, 2008, the Defendant was in the [REDACTED] County DHHR Office and reported that she receives an annual check from the U.S. Air Force.
- 7) The Repayment Investigator testified that, due to the unreported income from the U.S. Air Force, the Defendant received an over issuance of \$2,853 in Food Stamps for the period of August 2006 through May 2008. Calculations are documented in Exhibits D-1 and D-2. According to Exhibit D-3, the Claimant had received a gross annual payment of \$9,199.57. The income statement indicates that the final annual payment would be made on June 3, 2026.
- 8) The Defendant testified that she did not intentionally withhold information from the Department and that the Air Force income is a bonus check that she receives once a year. She indicated the pay is a separation incentive that she has received for several years and does not consider the payment as monthly income. The Defendant stated that she has no way to pay back the Food Stamp benefits.
- 9) West Virginia Income Maintenance Manual Section 1.2E (D-8) 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.
- 10) West Virginia Income Maintenance Manual Section 10.4, D, 11 states that recurring lump sum payments, received by an applicant in the month of application or by a recipient, are treated as unearned income and prorated over the period of time they are intended to cover.
- 11) West Virginia Income Maintenance Manual Section 20.2 (D-10):

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.

12) West Virginia Income Maintenance Manual Section 20.2, 2 (D-10):

IPV's [*sic*] 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.

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). (D-9)

- 13) WVDHHR 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.

## **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.
- 3) Evidence reveals that the Defendant received Food Stamps from August 2006 through May 2008, but did not report her recurring lump sum income from the U.S. Air Force until July 2008. The Defendant signed applications/Rights and Responsibilities on four separate occasions, failing to report the income despite agreeing to provide complete and truthful information to the Department.
- 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 25th Day of July, 2009.**

---

**Pamela L. Hinzman  
State Hearing Officer**