



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P. O. Box 468
Hamlin, WV 25523

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

August 5, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on the Food Stamp Administrative Disqualification Hearing held July 9, 2009 for the purpose of determining whether or not an Intentional Program Violation (IPV) occurred.

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 SNAP 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 submitted at the hearing demonstrated that you intentionally withheld information about your circumstances in order to receive SNAP benefits for which you were not entitled.

It is the decision of the State Hearing Officer to **uphold** the Agency's proposal to apply a one (1) year Food Stamp disqualification penalty against you based on an Intentional Program Violation.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review/Jennifer Butcher, Kanawha DHHR

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

-----,

Defendant,

v.

Action Number: 09-BOR-1180

**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 19, 2009. 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 hearing was convened on July 9, 2009.

It should be noted here that the Defendant was notified by first class mail delivery of this hearing on May 19, 2009 and has failed to appear. The Defendant is currently receiving benefits from the Department and her address has been validated. The hearing is being held in her absence, and a decision will be issued based on the evidence presented during this hearing.

II. PROGRAM PURPOSE:

Supplemental Nutrition Assistance Program (SNAP)

The purpose of the Supplemental Nutrition Assistance Program (SNAP) 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 benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

III. PARTICIPANTS:

Jennifer Butcher, State Repayment Investigator, DHHR

Presiding at the Hearing was Cheryl Henson, 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 for one year from participation in the SNAP Program.

V. APPLICABLE POLICY:

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

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Federal Regulations 273.16
- D-2 Fraud Referral Form signed November 14, 2007
- D-3 WV Income Maintenance Manual Section 1.2.E
- D-4 Combined Application Form dated July 31, 2006 and Rights and Responsibilities form
- D-5 Employment and Wage information for -----
- D-6 Food Stamp Claim Determination forms
- D-7 Application for West Virginia Clothing Allowance dated June 29, 2007
- D-7A Combined Application Form dated July 20, 2007 and Rights and Responsibilities form
- D-8 Provider Payment History Report dated January 30, 2008
- D-9 Food Stamp Claim Determination forms from August 2007 through January 2008
- D-10 WV Income Maintenance Manual Section 20.6
- D-11 Notification of Intent to Disqualify dated April 15, 2009
- D-12 Waiver of Administrative Disqualification Form dated April 20, 2009
- D-13 Notification letter dated June 18, 2007
- D-14 WV Income Maintenance Manual Section 20.2
- D-15 WV Income Maintenance Manual Section 20.2.A.2
- D-16 WV Income Maintenance Manual Section 20.2.E
- D-17 WV Income Maintenance Manual Section 20.2.F.2.a

Claimant's Exhibits:

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' (Department) on May 19, 2009. The Department contends that the Defendant has committed an Intentional Program Violation and made a fraudulent statement or misrepresentation regarding her earned income in order to

receive food stamp benefits, and is recommending that the Defendant be disqualified from participation in the Food Stamp Program for a period of one (1) year.

- 2) On or about April 15, 2008 the Department sent the Defendant a Notification of Intent to Disqualify (D-11) form, indicating that the Department had reason to believe she violated the Food Stamp Program by intentionally violating a Food Stamp Program rule. The form included the following pertinent information:

Based on the evidence developed through our investigation, the agency believes that ----- intentionally violated the food stamp program by: failing to report at reviews and applications that she started to work for [REDACTED] on April 4, 2006 and [REDACTED] in May 2007.

- 3) The Department presented evidence to show that the Defendant completed food stamp redetermination interviews with them on July 31, 2006 (D-4) and July 20, 2007 (D-7A), and she failed to report that she was working. This resulted in the Defendant receiving more food stamps than she was entitled.
- 4) During the July 31, 2006 interview (D-4), the Defendant reported Supplemental Security Income (SSI) for her children only. She signed the Rights and Responsibilities form (D-4) indicating she understood her responsibility to report information accurately, and the penalties involved for withholding information.
- 5) The Department verified (D-5) that the Defendant began work at [REDACTED] on April 4, 2006 and was working at the time of the redetermination interview conducted on July 31, 2006. The verification (D-5) indicates she stopped working there on November 17, 2006. The Defendant never reported this information.
- 6) The Defendant completed a food stamp redetermination interview with the Department on July 20, 2007 at which time she indicated she had no earnings. She again signed the Rights and Responsibilities form acknowledging she understood her responsibilities to report all information accurately.
- 7) The Department verified (D-8) that the Defendant was employed with [REDACTED] beginning in May 2007 and was issued her first check on June 14, 2007 in the amount of \$276.00. This information was not reported during her July 20, 2007 redetermination interview with the Department.
- 8) West Virginia Income Maintenance Manual ' 1.2 (E) states that it is the client's responsibility is to provide information about his circumstances so the worker is able to make a correct decision about his eligibility.
- 9) West Virginia Income Maintenance Manual ' 20.2:

When a 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.

- 10) West Virginia Income Maintenance Manual ' 20.2 (C) (2):

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: (' 9.1, A, 2, h) 1st Offense: 1 year (Disqualification)

- 11) Common Chapters Manual 700, Appendix A, Section B states in pertinent part:

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.

- 12) Common Chapters Manual 700, Appendix A, Section G, states that the State Hearing Officer shall base the determination of Intentional Program Violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, an Intentional Program Violation as defined in Section B of this Appendix.

VIII. CONCLUSIONS OF LAW:

- 1) The policy and regulations that govern the Food Stamp program state that a Food Stamp Program Violation has occurred when an individual intentionally makes a false or misleading statement, or misrepresented, concealed or withheld facts relating to the use, presentation, transfer, acquisition, receipt or possession of Food Stamp benefits.
- 2) The regulations state there must be clear and convincing evidence that demonstrates the Defendant intentionally committed an Intentional Program Violation. The Defendant clearly withheld information at both her July 31, 2006 and July 20, 2007 food stamp redetermination interviews with the Department by intentionally withholding the information about her employment.
- 3) Evidence is also clear in that the Defendant was well informed of her responsibility to report her circumstances completely and truthfully during application and review.

IX. DECISION:

The Agency's proposal to apply a one (1) year Food Stamp disqualification is **upheld**.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 5th Day of August, 2009.

**Cheryl Henson
State Hearing Officer**