



**State of West Virginia**  
**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**  
**Office of Inspector General**  
**Board of Review**  
**9083 Middletown Mall**  
**White Hall, WV 26554**

**Joe Manchin III**  
**Governor**

**Patsy A. Hardy, FACHE, MSN, MBA**  
**Cabinet Secretary**

October 19, 2009

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on the Food Stamp (Now SNAP) Administrative Disqualification Hearing held September 23, 2009 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 expenses 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. This disqualification will begin effective December 1, 2009.

Sincerely,

Thomas E. Arnett  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Teresa Smith, SRI, DHHR

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

-----,

**Defendant,**

**v.**

**Action Number: 09-BOR-1685**

**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 October 19, 2009 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 hearing was convened on September 23, 2009.

**II. PROGRAM PURPOSE:**

The purpose of the **Food Stamp (Now SNAP) 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:**

Teresa Smith, State Repayment Investigator, DHHR

Presiding at the Hearing was Thomas E. Arnett, State Hearing Officer and a member of the State Board of Review.

**IV. QUESTION(S) TO BE DECIDED:**

The question to be decided is whether or not the Defendant committed an Intentional Program Violation (IPV) and should be disqualified for a specified period from participation in the Food Stamp (SNAP) Program.

**V. APPLICABLE POLICY:**

7 CFR § 273.16 USDA Code of Federal Regulations  
Common Chapters Manual, Chapter 700  
West Virginia Income Maintenance Manual §1.2, 1.4, 9.1, 10.4 & 20.2

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

**Department's Exhibits:**

DHS-1 Food Stamp 24-Month Review dated 9/26/07 (Telephone Interview) – Completed 10/23/07  
DHS-2 Verification of rent payment amount from [REDACTED] Housing Authority, dated 10/31/08  
DHS-3 Correspondence from Teresa Smith to ----- dated 11/3/08  
DHS-4 Food Stamp Claim Determination for period 10/07 through 12/08  
DHS-5 Notification of Intent to Disqualify – dated 12/12/08  
DHS-6 West Virginia Income Maintenance Manual Chapter 1.2, 1.4, 9.1.A.2.h, 10.4, 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 Teresa Smith on August 11, 2009. Ms. Smith contends that the Defendant has committed an Intentional Program Violation and is recommending that the Defendant be disqualified from participation in the Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, for a period of one (1) year.
- 2) Notification of the September 23, 2009 hearing was mailed to the Defendant on August 20, 2009 via Certified – Restricted Delivery Mail. The Defendant's signature appears on the return receipt verifying notice on August 22, 2009.
- 3) The hearing convened as scheduled at 10:00 a.m., and as of 10:15 a.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.
- 4) The Department contends that the Defendant intentionally violated the Food Stamp Program regulations when she provided false information about her shelter and utility expenses. The Department contends that the Defendant reported she was paying \$450 per month rent during her 24-month Food Stamp Review completed on 9/26/07 (DHS-1) – water, sewage and garbage were reported as the only utility expenses. The rent amount reported on the Food Stamp Review form was confirmed during a subsequent phone interview on 10/3/07 (See Case Comments dated 10/3/07). On 4/14/08 the Defendant phoned the Department and reported that she was responsible for electric and gas effective June 2008. As a result, the Defendant qualified for the SUA (Standard Utility Deduction) and her Food Stamp benefits were increased.

- 5) The Department received a tip indicating HUD was paying the Defendant's rent and part of her utilities. In correspondence received from the [REDACTED] Housing Authority (DHS-2), the Department confirmed that the Defendant's rent had been paid in full from October 2007 through October 2008. This document also indicates that while the Claimant became responsible for paying her electric bill in June 2008, gas was included in the rent and gas is the primary heat source for the residence.
- 6) Exhibit DHS-4, Food Stamp Claim Determination form, was submitted to show that the Defendant received \$1848 in Food Stamp benefits for which she was not legally entitled due to falsely claiming shelter and utility deductions.
- 7) The Department referred to the Rights and Responsibilities form that was completed and signed by the Defendant at the time of review (September 7, 2007). Item #3 states:

I understand if I am found (by court action or an administrative disqualification hearing) to have committed an act of intentional program violation, I will not receive Food Stamp benefits as follows: First Offense – one year; Second Offense – two years; Third Offense – permanently. In addition, I will have to repay any benefits received for which I was not eligible.

By signing the Food Stamp 24-month Review form, the Defendant certified that she read, understood, and accepted the rights and responsibilities and that all of the information she provided was true and correct.

- 8) West Virginia Income Maintenance Manual, Chapter 10.4:  
This section contains policy relating income disregards and deductions and to computation of and eligibility for Food Stamp benefits.
- 9) West Virginia Income Maintenance Manual Chapter 1.2 (E):  
The client's responsibility is to provide information about his circumstances so the worker is able to make a correct decision about his eligibility.
- 10) West Virginia Income Maintenance Manual, Chapter 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.
- 11) West Virginia Income Maintenance Manual, Chapter 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: (Chapter 9.1, A, 2, h) 1st Offense: 1 year (Disqualification)

- 12) Common Chapters Manual §740.11.D. Intentional Program Violation - For the purpose of determining through an Administrative Disqualification Hearing whether or not a person has committed an Intentional Program Violation, the following criteria will be used. 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 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.

#### **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 evidence reveals that the Defendant provided false and misleading information about her shelter costs when she completed the 24-month Food Stamp review on 9/26/07 and again during the subsequent phone interview on 10/3/07. While the Defendant's intent during the telephone conversation wherein she reported a change in her utility costs (4/14/08) is unclear, there is no doubt the Claimant provided false and misleading information about her shelter (rent) expenses. This clearly establishes intent.
- 3) The evidence is clear and convincing that the Defendant intentionally committed a Food Stamp Program violation as defined in the Food Stamp policy and regulations.
- 4) In accordance with Food Stamp policy and regulations, an Intentional Program Violation has been committed and a disqualification penalty must be applied. The disqualification for a first time offense is twelve months (one year).
- 5) Only the Defendant is subject to this disqualification. The 1-year disqualification will begin effective December 1, 2009.

#### **IX. DECISION:**

Intentionally making of 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 Disqualification period will begin effective December 1, 2009.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 19<sup>th</sup> Day of October, 2009.**

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**Thomas E. Arnett  
State Hearing Officer**