



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

July 15, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on the Food Stamp Administrative Disqualification Hearing held June 16, 2009 for the purpose of determining whether 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 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 submitted at the hearing demonstrated that you intentionally made false or misleading statements about your circumstances in order to receive Food Stamp 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/Debbie Roberts, Lincoln DHHR

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

-----,

Defendant,

v.

Action Number: 09-BOR-910

**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 June 26, 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 June 16, 2009.

It should be noted here that the Defendant was notified by first class mail delivery of this hearing on May 6, 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 today.

II. PROGRAM PURPOSE:

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:

Debbie Roberts, 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 Food Stamp 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 Benefit Recovery Referral Screen dated December 11, 2008
- D-2 WV Income maintenance Manual Section 1.2
- D-3 Federal Regulations Section 273.16
- D-4 Combined Application Form dated January 12, 2006
- D-5 Rights and Responsibilities Form Signed January 12, 2006
- D-6 Combined Application Form dated August 3, 2006
- D-7 Rights and Responsibilities signed August 3, 2006
- D-8 Combined Application Form dated May 17, 2007
- D-9 Rights and Responsibilities Form signed May 17, 2007
- D-10 Written Statement dated July 6, 2007
- D-10A Notification letter dated March 25, 2009
- D-11 Food Stamp Claim Determination Forms and accompanying documents
- D-12 WV Income Maintenance Manual Section 2.2
- D-13 WV Income Maintenance Manual Section 20.6
- D-14 Notification letter dated February 26, 2009
- D-15 WV Income Maintenance Manual Section 20.2

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 March 23, 2009. The Department contends that the Defendant has committed an Intentional Program Violation and made a fraudulent statement or misrepresentation regarding her household benefit group 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 February 26, 2009 the Department sent the Defendant a Notification of Intent to Disqualify (D-14) 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:

An investigation has been completed relative to your food stamp case record. As a result of this investigation, it is alleged that you have received food stamp coupons to which you were not legally entitled by intentionally violating a Food Stamp rule. Based on the evidence developed through our investigation, the agency believes that ----- intentionally violated the food stamp program by: failed to report that child -----resides with -----, not with you.

The evidence to prove this allegation consists of verification from field visits made by an investigator.

- 3) The Department presented evidence to show that the Defendant was in the Department's local office on January 12, 2006 and completed a food stamp review (D-4). She reported two persons in the household, herself and ----- . She signed the Rights and Responsibilities form (D-5) indicating she understood her obligation to report correct information and the potential penalties involved for false reporting. The Defendant was again in the local office August 3, 2006 and completed a medical and food stamp application (D-6), reporting a two person household including herself and ----- . She also signed the Rights and Responsibilities form (D-7). The Defendant completed a food stamp application (D-8) on May 17, 2007 reporting herself and -----as the household members. She signed the Rights and Responsibilities form (D-9) during this application process as well.
- 4) The Department obtained a written statement (D-10) from an individual who stated that she lives alone with her great nephew, ----- . She adds that he "has physically resided at my residence on a full time basis since October of 2005". She added that she has not received any financial assistance from her niece, the Defendant, who is the child's mother. She stated she also receives a medical card for the child.
- 5) The Department contends the Defendant gave false information during several interviews and signed Rights and Responsibilities forms on numerous occasions. The Department contends this shows the Defendant was aware of her responsibility to report correct information and she intentionally gave false information in order to obtain food stamp benefits.
- 6) 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.
- 7) 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.

8) 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)

9) 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.

10) 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 gave false information on several occasions in order to receive food stamp benefits. She falsely reported that her son was living with her, when in fact he was living with another relative. This resulted in her receiving more food stamp benefits than she was entitled to receive.
- 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 15th Day of July, 2009.

**Cheryl Henson
State Hearing Officer**