



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
4190 West Washington Street  
Charleston, West Virginia 25313

Joe Manchin III  
Governor

Secretary

February 14, 2005

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Ms. \_\_\_\_\_;

Attached is a copy of the findings of fact and conclusions of law on your administrative disqualification hearing held October 29, 2004.

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.

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 (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 regulations, or any statute relating to the use, presentation, transfer, acquisition, receipt, or possession of Food Stamp coupons. (Section B. Appendix A, Chapter 700 of Common Chapters Manual) Individuals found to have committed an intentional program violation shall be ineligible to participate in the Food Stamp Program for a fixed period of time as explained in section 9.1 (A)(2)(f) of the WV Income Maintenance Manual and 7 CFR Section 273.16).

The information submitted at the hearing revealed that: You failed to report correct household composition. This resulted in an over issuance of \$ 1,323.00 in Food Stamp Benefits. The overpayment period covers October 1, 2003 through April 30, 2004.

It is the decision of the State Hearing Officer, to uphold the Department's proposal, that you did commit an Intentional Program Violation. You will be sanctioned from the Food Stamp Program for a period of twelve (12) months. The sanction will be effective April 2005.

Sincerely,

Ray B. Woods, Jr., M.L.S.  
State Hearing Officer  
Member, State Board of Review

cc: State Board of Review  
Danita M. Bragg, Repayment Investigator

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

**NAME:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

**SUMMARY AND DECISION OF THE STATE HEARING OFFICER**

**I. INTRODUCTION**

This is a report of the State Hearing Officer resulting from an administrative disqualification hearing concluded on February 14, 2005.

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 administrative disqualification hearing was originally convened on October 29, 2004, on a timely appeal filed by the Department on September 8, 2004.

It should be noted here that, the defendant is a current recipient of Food Stamp Program Benefits.

All persons giving testimony were placed under oath.

**II. PROGRAM PURPOSE**

The Food Stamp Program is set up cooperatively between the Federal and State Government and administered by the West Virginia Department of Health and 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 food coupons to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

**III. PARTICIPANTS**

Danita M. Bragg, Repayment Investigator

Presiding at the hearing was, Ray B. Woods, Jr., 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 it was shown by clear and convincing evidence that the defendant, \_\_\_\_\_, committed an intentional program violation.

**V. APPLICABLE POLICY**

Common Chapters Manual, Chapter 700, Appendix A, Section B and; WV Income Maintenance Manual Section 9.1 (A)(2)(f)

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED**

- D ADH Hearing Summary
- D-1 ES-FS-5
- D-2 Food Stamp Calculation Sheet
- D-3 Food Stamp Issuance History – Disbursement Printout
- D-4 Food Stamp Allotment Determination Printout
- D-5 Rights and Responsibilities dated 05/29/03
- D-6 Children Medical Assistance Review dated 09/04/03
- D-7 WVIMM Chapter 2.2 B(1) TIMELY REPORTING AND FOLLOW-UP
- D-8 WVIMM Chapter 20.2 FOOD STAMP CLAIMS AND REPAYMENT PROCEDURES
- D-9 Code of Federal Regulations §273.16 – DISQUALIFICATION FOR INTENTIONAL PROGRAM VIOLATION.
- D-10 IG-BR-30; IG-BR-31 & IG-BR-44

**VII. FINDINGS OF FACT**

- Mrs. Bragg submitted the following ADH Hearing Summary:

**I. IDENTIFYING INFORMATION**

NAME: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_  
 AGE: 32 \_\_\_\_\_  
 CASE #: \_\_\_\_\_  
 WORKERS INVOLVED DURING PERIOD IN QUESTION: Debra White

**II. CASE DATA**

DATE OPENED: In Rapids 07/09/97 DATE CLOSED: N/A  
 OVERPAYMENT PERIOD: October 1, 2003 through April 30, 2004  
 AMOUNT OF FOOD STAMPS OVERISSUED: \$1323.00  
 ELIGIBILITY FACTOR INVOLVED: Ms. \_\_\_\_\_ was receiving Food Stamp benefits for two children who were not living in the household with her but with her mother, \_\_\_\_\_.

### III. SUMMARY OF FACTS

On April 14, 2004, the Investigations and Fraud Management Unit received a referral for repayment on the case of Ms. \_\_\_\_\_. The reason for the overpayment referral was an unreported change in the household composition. Ms. \_\_\_\_\_ was receiving food stamps for \_\_\_\_\_ who were no longer living with their mother but with their grandmother, \_\_\_\_\_. This worker contacted Ms. \_\_\_\_\_ who stated \_\_\_\_\_ moved out of the home with her other two children when her sister, \_\_\_\_\_, moved into a house owned by Ms. \_\_\_\_\_. Case comments from \_\_\_\_\_'s case show this was reported 08/22/03. Ms. \_\_\_\_\_ returned a CME and this was logged in with no reported changes 09-23-03. It was signed and dated by Ms. \_\_\_\_\_ September 5, 2003. Therefore, this is how the dates for claim were determined. Because of the nature of the claim, it has been pursued as an Intentional Program Violation (IPV). The Code of Federal Regulations, Sec. 273.16(c) states that an IPV consists 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 or ATP's. Ms. \_\_\_\_\_ has opted not to sign a waiver of the Administrative Disqualification Hearing (ADH). This ADH has been requested to establish an IPV with a one (1) year sanction from the Food Stamp program, with repayment of the over issued Food Stamps resulting from her IPV.

**DHS 1:** Agency Form ES-FS-5 (Food Stamp Claim Determination). This form shows the calculation of the Food Stamp over issuance. The over issuance is determined by comparing the actual amount of Food Stamps issued to the household with the corrected amount of Food Stamps. These amounts are shown on the right and left-hand columns of the form, respectively. The corrected amounts are determined by recalculating Food Stamp allotments with the excluded eligibility factor, which, in this case is unreported change in household benefit group. The total overpayment of \$1323 for this claim period is shown at the bottom of the form, inside the block marked "Loss to Program".

**DHS-2:** Agency Form ES-FS-5a, Food Stamp Calculation Sheet. This form shows an itemized breakdown of the over issuance shown in DHS-1. The "Corrected" side of the form corresponds with the "Corrected" side of the ES-FS-5 (DHS-1). The "Actual" side is shown in the EFAD screen prints from the RAPIDS Computer System (DHS-4).

**DHS-3:** IQFS Screen Prints from the RAPIDS Computer System. These screen prints show the amount of Food Stamps issued to Ms. \_\_\_\_\_'s household during the claim months. The amounts under the heading "Issued Amt" correspond with the actual coupon allotment amounts in DHS-1 and DHS-2.

**DHS-4:** EFAD Screen Prints from the RAPIDS Computer System. These screen prints show the calculation of the Food Stamp allotments at the time they were issued. They do not include the incorrect eligibility factor of unreported change in household composition. They are the basis of the "Actual" side of the ES-FS-5a (DHS-2).

**DHS-5:** Agency Form OFS-RR1 (Rights and Responsibilities), dated 05-29-03. At review Ms. \_\_\_\_\_ signed the Rights and Responsibilities form. Statement #6 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 Stamps 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. Statement #31 on this

form states, " I agree to let the local Department of Health and Human Resources office know within 10 days if: Note: Does not apply to Food Stamp households with a working adult. Item E. states, Anyone moves into/out of my household. For WV Works, children who leave and who will be gone more than 30 days must be reported in 5 days.

**DHS-6:** Agency Form WF-IM-L-01962664 (Children Medical Assistance Review) - This form was completed by Ms. \_\_\_\_ on September 5, 2003, stating all children were living with her in the same household.

**DHS-7:** Income Maintenance Manual Chapter 2.2B (Reporting Requirements).

**DHS-8:** Income Maintenance Manual Chapter 20.2 (Food Stamp Claims and Repayment Procedures)

**DHS-9:** The Federal Register Article 273.16C (Definition of an IPV)

#### **IV. RIGHTS AND RESPONSIBILITIES: EVALUATION OF CLIENT'S UNDERSTANDING OF AGENCY POLICY AND RECOMMENDATION**

\_\_\_\_ has participated in the Food Stamp program as far back as 1997. She has completed numerous applications and reviews during this period of time. She has reported changes of address, loss of unearned income in the form of child support. Ms. \_\_\_\_ did not report this change in the required 10 day time period. For these reasons, it is recommended that a first offense, twelve month IPV sanction be applied against \_\_\_\_\_. Additionally, repayment of the \$1323.00 in over issued Food Stamps is requested.

- Ms. \_\_\_\_ did not attend the Administrative Disqualification Hearing.

#### **VIII. CONCLUSIONS OF LAW**

1. According to Common Chapters Manual, Chapter 700, Appendix A, Section B, an intentional program violation consists of having intentionally made a false statement, or misrepresented, concealed or withheld facts, or committed any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any statute relating to the use, presentation, transfer, acquisition, receipt or possession of food stamp coupons.

2. According to policy at WV Income Maintenance Manual Section 9.1 (A)(2)(f) the disqualification penalty for having committed an Intentional Program Violation is twelve months for the first violation, twenty-four months for the second violation, and permanent disqualification for the third violation.

**IX. DECISION**

It is the decision of this State Hearing Officer that, \_\_\_\_\_ committed an Intentional Program Violation. Based on the information submitted at the hearing, Ms. \_\_\_\_\_ failed to report information that would affect her Food Stamp Benefits.

Ms. \_\_\_\_\_ will be sanctioned from the Food Stamp Program for a period of twelve (12) months and, must repay \$1,323.00 in over issued Food Stamp Benefits.

**X. RIGHT OF APPEAL**

See Attachment.

**XI. ATTACHMENTS**

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29