

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES  
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 March 16, 2005 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 fair hearing was convened on March 16, 2005.

It should be noted here that the defendant is not a current recipient of food stamp benefits.

**II. PROGRAM PURPOSE:**

The Program entitled Food Stamps is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & 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:**

Louise Law, Repayment Investigator

The defendant did not appear after being given proper and timely notice of the hearing.

**IV. QUESTIONS 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, reads in part:**

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.

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**Section 20.2 of the West Virginia Income Maintenance Manual reads in part:**

When an AG has been issued more Food Stamps than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation (UPV) or Intentional Program Violation (IPV) claim. The claim is the difference between the entitlement the AG received and the entitlement the AG should have received.

**7 CFR ▪ 273.16 (c) Definition of Intentional Program Violation**

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 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).

**7 CFR ▪ 273.16 (e) (6) Criteria for determining Intentional Program Violation.**

The hearing authority 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, Intentional Program Violation as defined in paragraph (c) of this section.

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

Department' Exhibits:

- Exhibit D-1) RAPIDS Benefit Recovery Referral Screen dated 08/23/04
- Exhibit D-2) Combined Application and Review Form dated 08/02/04
- Exhibit D-3) Rights & Responsibilities dated 08/02/04
- Exhibit D-4) Permanent Compensation Payment Screen
- Exhibit D-5) Food Stamp Claim Determination Form
- Exhibit D-6) RAPIDS Food Stamp Allotment Determination Screen
- Exhibit D-7) Statement from Bailey Bookkeeping dated 08/02/04
- Exhibit D-8) Case Comments dated 08/02/04 through 09/16/04
- Exhibit D-9) ADH Hearing Summary

**VII. FINDINGS OF FACT:**

- 1) A repayment referral was made 08/23/04. Reason: Workers Comp. match shows benefits of 1013 issued on 07/14/04 for month 08/01/04 thru 08/31/04. (Exhibit D-1)
- 2) The defendant completed a food stamp application on 08/02/04. He reported he had not worked for the Town of Iaeger since 06/21/04. The defendant did not report any unearned income from Worker's Compensation. The defendant signed the application certifying all statements were true and correct. (Exhibit D-2)
- 3) A statement was received from \_\_\_\_\_ Bookkeeping listing the defendant's last date of employment with the Town of \_\_\_\_\_ June 18, 2004. (Exhibit D-7)

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- 4) The defendant signed the Rights & Responsibilities on 08/02/04. He agreed to report changes as they occur and by signing the form certified he had provided complete and truthful information. (Exhibit D-3)
- 5) Case comments dated 08/11/04 read RAPIDS alert showed Worker's Compensation check issued on 07/14/05 in amount of \$1013.90 for the period 08/01/04 through 08/31/04. Worker spoke to customer who stated his lawyer must have received the check. A letter was sent asking the defendant to provide verification but there was no response.

(Exhibit D-8)

6) Worker's Compensation printout shows the defendant had been receiving benefits monthly in the amount of \$1013.90 since January, 2004. Checks had been paid  
07/14/04 and 08/11/04.(Exhibit D-4)

7) The failure of the defendant to report unearned income has resulted in a claim of  
\$277.00 for the period 08/04 through 09/04. (Exhibit D-5)

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

1) Policy states that "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 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)."

2) Policy dictates that the IPV claim is the difference between the entitlement the AG received and the entitlement the AG should have received.

3) The un-refuted evidence and testimony shows the defendant was receiving \$1013.90 a month from Worker's Compensation at the time he applied for food stamps on 08/02/04. He did not report this information.

### **IX. DECISION:**

After reviewing the information presented during the hearing and the applicable policy and regulations, it is the finding of the State Hearing Officer that the failure of the defendant to report unearned income at the time of application constitutes an intentional withholding and he did commit an Intentional Program Violation. The defendant will be disqualified for twelve months beginning June, 2005. Repayment will be initiated as policy dictates.

### **X. RIGHT OF APPEAL:**

See Attachment

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**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29