



**STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL**

**Martha Yeager Walker  
Secretary**

**Joe Manchin III  
Governor**

**Board of Review  
4190 West Washington Street  
Charleston, West Virginia 25313  
Email: raywoods@wvdhhr.org**

May 19, 2005

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

Attached is a copy of the findings of fact and conclusions of law on your administrative disqualification hearing held April 5, 2005.

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: You purchased \$140.00 worth of Food Stamp Benefits for \$70.00 cash. The incident occurred in January 2005.

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 July` 2005.

Sincerely,

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

cc: State Board of Review  
Jennifer Butcher, Repayment Investigator

# **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 May 19, 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 April 5, 2005, on a timely appeal filed by the Department on February 24, 2005.

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**

Jennifer Butcher, Repayment Investigator

Presiding at the hearing was, Ray B. Woods, Jr., M. L. S., 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 Combined Application and Review Form dated 09/28/04
- D-2 Rights and Responsibilities dated 09/28/04
- D-3 Statement of \_\_\_\_ dated 11/10/04
- D-4 Appointment Notice dated 02/09/05
- D-5 Copy of IG-BR-29; IG-BR-30; IG-BR-44 & IG-BR-44a
- D-6 Food Stamp Claim Determination - \$140.00

## **VII. FINDINGS OF FACT**

- 1) \_\_\_\_\_ submitted the following ADH Hearing Summary:

### **I. IDENTIFYING INFORMATION**

WORKERS INVOLVED DURING PERIOD IN QUESTION: Nancy Martinez

### **II. CASE DATA**

DATE OPENED: Feb 2003 DATE CLOSED: Still active

OVERPAYMENT PERIOD: January 2005

ELIGIBILITY FACTOR INVOLVED: Food Stamp Trafficking

### **III. SUMMARY OF FACTS**

The Claims and Collection Unit received a referral from Investigation Fraud Management Unit. Stating \_\_\_\_ bought \$140.00 worth of Food Stamp for \$70.00 cash. Because of this Food Stamp Trafficking an over issuance of Food stamps occurred for the period of January 2005.

The West Virginia Department Health and Human Resources has requested this hearing be held for the purpose of determining that \_\_\_\_ committed an Intentional Program Violation (IPV). The Federal Register, Article 273.16c defines an IPV as (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 Program Regulations

of or any state statute relating to the use, presentation, acquisition receipt, or possession of Food Stamps coupons or ATP's.

EXB -1 ES2 Review for Food Stamps dated 9/28/04 along with the Rights and Responsibilities were read by \_\_\_ and signed agreeing that all statements were read and she understood the statements.

Food EXB-2 Rights and Responsibilities dated 9/28/04 item # 5 page 2. I understand the Stamp benefits are to be used by my family and e to purchase food or seeds. I cannot sell my Food Stamps benefits or use someone else's benefits for myself. The Food stamps will not be used for any other purpose. I understand that I may not use my EBT Food Stamp benefits to purchase food on credit. This means I cannot pay for food already purchased or food to be received in the future.

EXB-3 Statement from Senior Trooper. AD Nichols of the West Virginia State Police dated 11/10/04. In which is stated by \_\_\_ \_\_\_ that she paid a total of \$70.00 for \$140.00 worth of Food on her EBT card. She stated that \_\_\_first sold the card to \_\_\_(\_\_\_'s Grandfather) and he did not have the money so she paid her for him. \_\_\_gave her the pin number and she and a friend went to the Quincy Kroger's and used the card.

On the second page of the statement the State Trooper took \_\_\_ swore the above statement was true and correct to the best of her knowledge and then signed the statement.

EXB-4 IFM-17L dated February 9, 2005 was mailed to client at PO Cedar Grove, WV 25039 asking her to come into office for an appointment on February 23,2005 to discuss the issue of buying the \$140.00 worth of stamps on the EBT card for \$70.00. Client failed to show.

EXB-5 IG-BR 29 was sent to Ray Woods State Hearings Officer to set an appointment for this ADH.

EXB-6 ES-FS-5 Food Stamp Claim and Collection Determination sheet. Showing what she received and what she was eligible to receive.

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

\_\_\_ \_\_\_ has received Food Stamps from the Department for many years and has completed many applications and reviews. At each time she read or had read to her the Rights and Responsibilities and she understood the statements and she knew that it was unlawful to sell or purchase Food Stamps. Therefore I and requesting a 12 month Intentional Program Violation be imposed and the client must repay the Department of Human Resources the sum of \$140.00 for the Stamps she bought illegally.

2) A decision was rendered at the conclusion of the 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, Ms. \_\_\_ committed an Intentional Program Violation. Based on the information submitted at the hearing, Ms. \_\_\_ is guilty of Food Stamp Trafficking.

Ms. \_\_\_ will be sanctioned from the Food Stamp Program for a period of twelve (12) months and, owes a repayment of \$140.00 in Food Stamp Benefits.

## **X. RIGHT OF APPEAL**

See Attachment.

## **XI. ATTACHMENTS**

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29