



**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**

June 13, 2005

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

Attached is a copy of the findings of fact and conclusions of law on your administrative disqualification hearing held April 29, 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 owned a home that was not used as homestead property and, should have been counted as an asset. An over issuance of Food Stamp Benefits in the amount of \$2,920.00, occurred between the period of March 12, 2004 through August 31, 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 July 2005.

Sincerely,

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

cc: State Board of Review  
Danita Bragg, 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 June 13, 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 29, 2005, on a timely appeal filed by the Department on February 7, 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**

Danita Bragg, 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 Food Stamp Claim Determination - \$2,920.00
- D-2 Food Stamp Allotment Determination Printout
- D-3 Food Stamp Issuance History – Disbursement Printout
- D-4 Combined Application and Review Form dated 03/19/04
- D-5 Tax Receipt
- D-6 WVIMM Chapter 11.3 Maximum Assets
- D-7 WVIMM Chapter 20.2 Food Stamp Claims and Repayment Procedures
- D-8 7CFR 273.16 Disqualification for Intentional Program Violation
- D-9 Notification of Intent to Disqualify dated 10/15/04
- D-10 Copy of IG-BR-29; IG-BR-30; IG-BR-44 & IG-BR-44a

**VII. FINDINGS OF FACT**

- 1) Mrs. Bragg submitted the following ADH Hearing Summary:

**I. IDENTIFYING INFORMATION**

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

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

AGE: \_\_\_\_\_

CASE #: \_\_\_\_\_

WORKERS INVOLVED DURING PERIOD IN QUESTION: Jordan McVey, WW1011

**II. CASE DATA**

DATE OPENED: March 12, 2004 DATE CLOSED: August 31, 2004

OVERPAYMENT PERIOD: March 12, 2004 through August 31, 2004

AMOUNT OF FOOD STAMPS OVER ISSUED: \$2920.00

ELIGIBILITY FACTOR INVOLVED: Mr. and Mrs. \_\_\_\_\_ own a home at \_\_\_\_\_. The property was not being used as homestead property and should have counted as an asset. Tax ticket shows a value of \$14,520 at .60 = Total Value of \$23,232. Household over

asset for food stamps during this entire time period.

### III. SUMMARY OF FACTS

On September 8, 2004, the Investigations and Fraud Management Unit received a referral for repayment on the case of \_\_\_\_\_. The reason for the overpayment referral was Mrs. \_\_\_\_\_ applied for benefits on March 12, 2004. Stated she and \_\_\_\_\_ were separated and to remove him from the case. Mrs. \_\_\_\_\_ stated she was living at \_\_\_\_\_. During the above time period \_\_\_\_\_ had reported \_\_\_\_\_'s daughter \_\_\_\_\_ living in the home with \_\_\_\_\_. On 04/08/04 \_\_\_\_\_ contacted Change Center and reported \_\_\_\_\_ out of the home. On 05/25/04 \_\_\_\_\_ reported \_\_\_\_\_ back in the home. On 05/25/04 \_\_\_\_\_'s mother contacted the Fayette County office and stated \_\_\_\_\_ was living with her and had during this time period. A referral was made to the Front End Fraud Unit to determine household composition. It was determined that \_\_\_\_\_ and \_\_\_\_\_ were living together and \_\_\_\_\_ was not a member of this household. This resulted in an over issuance of TANF benefits also as \_\_\_\_\_ had been a member of this household and is the children's father. \_\_\_\_\_ had not attended orientation or completed a PRC. Another referral was made to the Front End Fraud Unit to determine ownership of property \_\_\_\_\_ is paying mortgage for at \_\_\_\_\_. FEFU determined through obtaining a tax ticket the home on Veterans Avenue \_\_\_\_\_ is owned by \_\_\_\_\_. Tax ticket shows a value of \$14,520 at .60 - Total value of \$23,232. The home is not income producing and is not being used as \_\_\_\_\_ or \_\_\_\_\_'s homestead property. This property places the household over the asset limit and dates back to application date 03/12/04 - August 31, 2004. They were receiving food stamps based on false information. Due to the nature of the claim, it is being pursued as an Intentional Program (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 Administrative Disqualification Hearing. This ADH has been requested to establish an IPV with a 12 month 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 the Food Stamp Allotments with the excluded eligibility factor, which, in this case, is household is over asset. The total overpayment of \$2,920 for this claim period is shown at the bottom of the form, inside the block marked "Loss to Program".

DHS-2: 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.

DHS-3: 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 earnings. They are the basis of the "Actual" side of the ES-FS-5a (DHS-1).

DHS-4: OFS-2 Application/Redetermination Form, dated March 12, 2004, & Rights and Responsibilities. At time of this application, Ms. \_\_\_\_\_ reported \_\_\_\_\_ not living in the household and his daughter \_\_\_\_\_ living in the household. Did not report still owning house at \_\_\_\_\_. The Rights and Responsibilities were also signed March 12, 2004, by Ms. \_\_\_\_\_. On the Rights and Responsibilities Item 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 Stamp benefits as follows: First Offense - 1 yr.; Second Offense - 2 yrs; Third Offense - permanently. In addition, I will have to repay any benefits received for which I was not eligible. Item 44 States: I understand if I give incorrect or false information or if I fail to report changes that I am required to report, I may be required to repay any benefits I receive. I may also be prosecuted for fraud and I understand that any person who obtains or attempts to obtain welfare benefits from the DHHR by means of a willfully false statement or misrepresentation or by impersonation or any other fraudulent device can be charged with Fraud, Punishment upon a conviction may be a fine up to \$5,000 and/or a jail sentence of 5 years in jail. For the Food Stamp Program Only - federal penalties may include a maximum fine of \$250,000 and a jail sentence of up to 20 years. Item 47 States: I certify that all statements on this form have been read by me or to me and that I understand them. I certify that all the information I have given is true and correct and I accept these responsibilities. The OFS-2 & Rights & Responsibilities forms were signed by Ms. \_\_\_\_\_ March 12, 2004.

DHS-5: Copy of Fayette County Tax Ticket. This shows that \_\_\_\_\_ own the property located at\_\_\_\_\_.

DHS-6: Copy of Income Maintenance Manual Chapter 11.3. (Maximum Allowable Assets)

DHS-7: Copy of Income Maintenance Manual Chapter 20.2 (Food Stamp Repayment).

DHS-8: 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, 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.

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

Ms. \_\_\_\_\_ has participated in the Food Stamp program since August 1, 2000. She has completed numerous applications and reviews during this period. She is aware and has been informed of the need to report accurate information during application and reviews. For these reasons, it is recommended that a first offense, 12 month IPV sanction be applied against Ms. \_\_\_\_\_. Additionally, repayment of the \$2,920 in over issued Food Stamps is requested.

2) Ms. \_\_\_\_\_ did not attend the scheduled Administrative Disqualification Hearing.

- 3) 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. \_\_\_\_\_ will be sanctioned from the Food Stamp Program for a period of twelve (12) months.

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

See Attachment.

### **XI. ATTACHMENTS**

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29