



**State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
150 Maplewood Avenue  
Lewisburg, WV 24901**

**Joe Manchin III  
Governor**

**Martha Yeager Walker  
Secretary**

October 21, 2005

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

Dear Mr. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your administrative disqualification hearing held June 2, 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 20.2(D)(2)(e) of the WV Income Maintenance Manual and 7 CFR Section 273.16

The information which was submitted at your hearing revealed there was no clear and convincing evidence you committed an Intentional Program Violation.

It is the decision of the State Hearing Officer that you did not commit an Intentional Program Violation.

Sincerely,

Margaret M. Mann  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Louise Law, DHHR

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

\_\_\_\_\_,

**Defendant,**

v.

**Action Number: 05-BOR-5385**

**West Virginia Department of  
Health and Human Resources,**

**Respondent.**

**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 2, 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.

It should be noted here that the defendant is a recipient of food stamps.

**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, DHHR

It should be noted that the defendant, \_\_\_\_\_, did not appear for the hearing after being given proper and timely notice.

Presiding at the Hearing was Margaret M. Mann, State Hearing Officer and a member of the State Board of Review.

**IV. QUESTIONS TO BE DECIDED:**

The question(s) 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 D, Section B  
Section 20,2 of the West Virginia Income Maintenance Manual  
7 CFR 273.16

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

**Department's Exhibits:**

- D-1 Repayment Referral Form dated 12/17/04
- D-2 Food Stamp, WV WORKS and EA Applications dated 10/23/03, 11/10/03 and 09/09/04
- D-3 Rights & Responsibilities Forms dated 10/23/03, 11/10/03 and 09/09/04
- D-4 Verification of School Attendance from Concord University
- D-5 Food Stamp Claim Determination Form
- D-6 RAPIDS Screen - Food Stamp Allotment Determination
- D-7 Quality Assurance Review Form
- D-8 CHIP Application Form dated 07/07/04
- D-9 Case Comments dated 09/13/04
- D-10 ADH Hearing Summary

**I. FINDINGS OF FACT:**

- 1) The Repayment Unit received a referral on 12/17/04 from the Income Maintenance Unit stating defendant did not report that her daughter, \_\_\_\_\_, was out of the home and living on campus at Concord University. (D-1)
- 2) There was an over issuance of food stamps from 07/04 through 10/04 in the amount of \$406.00. This was the result of the defendant not reporting \_\_\_\_\_ was a full time student.
- 3) The defendant's spouse, Abigail Snead, was in the office on 10/23/03 for a food stamp review. She reported herself, her husband, and two children in the home, She signed the application acknowledging all information was correct. \_\_\_\_\_ also signed the Rights and Responsibilities agreeing to report household changes.

- 4) \_\_\_\_\_ was back in the office on 11/10/03 to apply for WV WORKS. She stated her husband could not come in. Case comments dated 11/29/03 read that the worker completed a home visit on 11/17/03 and completed the paperwork with Mr. \_\_\_\_\_. The Rights & Responsibilities form was signed by \_\_\_\_\_ on 11/10/03 and \_\_\_\_\_ on 11/17/03.
- 5) The defendant's daughter, \_\_\_\_\_, became a full time student at Concord University and started classes 06/01/04. The defendant did not report \_\_\_\_\_ out of the home
- 6) The Quality Assurance reviewer reported that \_\_\_\_\_ stated during the review that \_\_\_\_\_ resided in the home and was job hunting on the day of the review. The QA report is dated 12/07/04. (D-7). The QA review reads \_\_\_\_\_ is living on campus.
- 7) \_\_\_\_\_ completed a WV CHIP review in 07/04 and an Emergency Assistance application in 09/04. She did not report \_\_\_\_\_ out of the home.
- 8) \_\_\_\_\_ signed the application and Rights & Responsibilities for WV WORKS 11/17/03. All other applications were signed by \_\_\_\_\_.
- 9) Common Chapters Manual, Chapter 700, Appendix A, Section B, reads in part: An Intentional Program Violation consists of having intentionally made a false statement 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 use, presentation, transfer, acquisition, receipt or possession of food stamp coupons.
- 10) Section 20.2 of the West Virginia Income Maintenance Manual reads in part: When an AD 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 Violation (IPV) claim. The claim is the difference between the entitlement the AG received and the entitlement the AG should have received.
- 11) 7 CFR 273.16 © Definition of Intentional Program Violation: An Intentional Program Violation shall consist of having intentionally (1) made a false or misleading statement, or misrepresented concealed or misrepresented facts; or (2) committed an act that constitutes a violation of the Food Stamp Act, the Food Stamp 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).
- 12) 7 CFR 274.16 (e) (6) Criteria for determination 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 © of this section,

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

- 1) The defendant was a recipient of food stamps.

- 2) The defendant was aware of his rights and responsibilities. This includes reporting changes timely.
- 3) According to un-refuted testimony, defendant's daughter started classes at Concord University on 06/01/04. She lived on campus. This change was not reported timely.
- 4) The defendant's spouse was the primary person reporting information to the Department. She completed a WV CHIP review in 07/04 and an EA application in 09/04. She is also noted as the individual giving information to the Quality Assurance reviewer.
- 5) Policy dictates that a determination of an Intentional Program Violation shall be based on clear and convincing evidence that the household member committed and intended to commit an Intentional Program Violation. The evidence and testimony presented in this hearing does not support the allegation that the defendant committed and intended to commit an Intentional Program Violation.
- 6) The house hold received an over issuance of food stamps as a result of the change not being reported.

**IX. DECISION:**

It is the finding of the State Hearing Officer that the defendant did not commit an Intentional Program Violation. The defendant will not be disqualified from the program. Repayment will be initiated as policy dictates.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 21st Day of October, 2005.**

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**Margaret M. Mann  
State Hearing Officer**