



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 11, 2005

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

Dear Ms. \_\_\_\_\_:

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 that you failed to report your son was working.

It is the decision of the State Hearing Officer that you did commit an Intentional Program Violation. You will be disqualified from participation in the Food Stamp Program for twelve months beginning November 1, 2005.

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

**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 not 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
- D-2 Food Stamp Application dated 02/27/04
- D-3 Rights & Responsibilities Form dated 02/27/94
- D-4 Wage History Report
- D-5 Food Stamp Claim Determination Form
- D-6 RAPIDS Screen - Food Stamp Allotment Determination
- D-7 Food Stamp Calculation Sheet
- D-8 Case Comments
- D-9 ADH Hearing Summary

**I. FINDINGS OF FACT:**

- 1) The Repayment Unit received a referral on 10/12/04 from the Income Maintenance Unit stating \_\_\_\_\_ had earnings in the second quarter of 2004 and the earnings were not reported. (D-1)
- 2) There was an overissuance of food stamps from 04/04 through 06/04 in the amount of \$1,277.00 as a result of the earnings not being reported. The Department contends the defendant committed an intentional program violation. .
- 3) The defendant was in the office on 02/27/05 and completed a food stamp review. She reported herself and six children in the home with income from Social Security and child support. She signed the application acknowledging all statements were true and correct, She also signed the Rights & Responsibilities accepting responsibilities thereof. This includes reporting changes timely. (D-2 & D-3)

- 4) The defendant's son, \_\_\_\_\_, started work at \_\_\_\_\_ on 03/05/04 through 05/24/04. (D-4)
- 5) Case comments dated 05/14/04 show the defendant called to report the father of one of her children had passed away. There was no mention of \_\_\_\_\_'s employment. (D-6) He was working at the time the other change was reported. The defendant has received benefits since 1994.
- 6) 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.
- 7) 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.
- 8) 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).
- 9) 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 her rights and responsibilities. This includes reporting changes timely.
- 3) According to un-refuted testimony, the defendant's household had additional income. The defendant had the opportunity to report this information while reporting another change and did not do so, This failure to report earned income constitutes an intentional withholding.
- 4) The house hold received an overissuance 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 commit an Intentional Program Violation. The defendant will be disqualified for twelve months beginning November 1, 2005. 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 11th Day of October, 2005.**

---

**Margaret M. Mann  
State Hearing Officer**