

State of West Virginia DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Office of Inspector General Board of Review 4190 Washington Street West Charleston, WV 25313

Governor		October 13, 2005	Martna	Yeager Walker Secretary
Dear Ms	:			

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 13, 2005. Your hearing was based on the Department of Health and Human Resources' proposal that you committed an Intentional Program Violation.

In arriving at a decision, the State Hearings 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.

Eligibility for the Food Stamps is based on current policy and regulations. Some of these regulations state as follows: 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.

The information submitted at your hearing revealed: You failed to report unearned income in a timely manner. This resulted in an over issuance of Food Stamp Benefits in the amount of \$5,197.00 for the period covering June 1997 through April 1999.

It is the decision of the State Hearings Officer to UPHOLD the PROPOSAL of the Department that you committed an Intentional Program Violation. You will be sanctioned from the Food Stamp Program for a period of one (1) year. The sanction will be effective December 2005.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review; Debbie Roberts, Repayment Investigator

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 THE STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from an Administrative Disqualification Hearing concluded on October 13, 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 Administrative Disqualification Hearing was originally scheduled for August 30, 2005 on a timely appeal filed July 13, 2005. Mrs. Roberts was unable to attend the hearing and it finally convened on September 13, 2005.

It should be noted here that the defendant's benefits have been continued pending a hearing decision.

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 EBT benefits 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 Deborah Cooper, Repayment Investigator (Observing)

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. 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:

WV Income Maintenance Manual Section 9.1 (A) (2) (f) and, Common Chapters Manual, Chapter 700, Appendix A, Section B.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

DHS-1	Benefit Recovery Referral dated 04/15/05
DHS-2	WVIMM Section 1.2 E CLIENT RESPONSIBILITY
DHS-3	Food Stamp Claim Determination
DHS-4	7CFR273.16 Disqualification for intentional program violation
DHS-5	Case Comments 06/16/97
DHS-6	Case Comments 07/17/97
DHS-7	Case Comments 07/30/97 and Application dated 07/30/97
DHS-8	Disposition of Medical ID Card/Check FS Request dated 10/16/97
DHS-9	Application dated 02/10/98
DHS-10	Rights and Responsibilities dated 02/10/98
DHS-11	Case Comments 09/01/98
DHS-12	Rights and Responsibilities dated 08/31/98
DHS-13	Case Comments 02/26/99
DHS-14	Application dated 02/25/99
DHS-15	Rights and Responsibilities dated 02/25/99
DHS-16	Case Comments dated 04/09/99
DHS-17	Case Comments 04/14/99
DHS-18	Case Comments 05/25/99
DHS-19	WVIMM Section 2.2 B REPORTING REQUIREMENTS
DHS-20	WVIMM 20.6 Benefit Repayment
DHS-21	Notification of Intent to Disqualify dated 05/19/05

DHS-22 Request for Pre-Hearing Conference dated 05/27/04
DHS-23 WVIMM Section 20.1 INTRODUCTION
DHS-24 Case Household Information
DHS-25 ADH Hearing Summary
DHS-26 IG-BR-30; IG-BR-31; IG-BR-44; Rescheduled Notice
DHS-27 GroupWise Message re: Hearing

Claimants' Exhibits:

NONE

VII. FINDINGS OF FACT:

- 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.
- 3) Mrs. Butcher submitted the following A D H Summary on behalf of Mrs. Roberts:

IDENTIFYING INFORMATION

NAME:			
ADDRESS:			
AGE: DOB			
CASE#:	_		
WORKER INVOL	VED DURING PERIOD IN	N QUESTION: BRENDA	TOPPINGS,
MILDRED BLECK	HER. STEVE HILL & LAU	IREL HENSON.	•

CASE DATA

DATE OPENED: 111/1/85 DATE CLOSED: ACTIVE

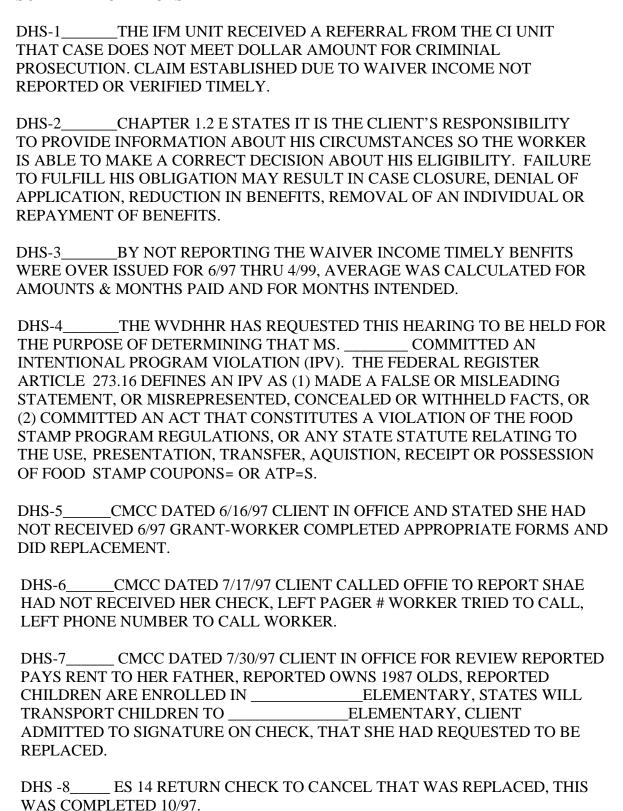
OVERPAYMENT PERIOD: 6/97 THRU 4/99

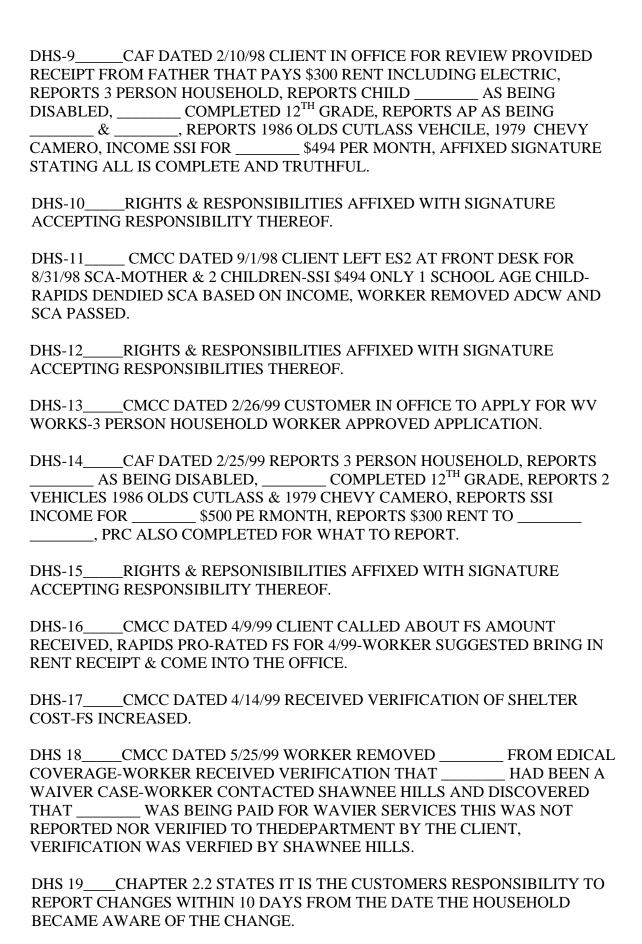
OVER ISSUED AMOUNT: \$5197.00

ELIGIBILITY FACTO INVOLVED: FAILURE TO REPORT AND VERIFY WAIVER

INCOME TIMELY.

SUMMARY OF FACTS





	DHS-20CHAPTER 20.6 STATES MISREPRESENTATION MAY ALSO BE THE SUPPRESSION OF WHAT IS TRUE, AS WELL AS IN THE REPRESENTATION OF WHAT IS FALSE.
	DHS-21IGBR 44 & 44A MAILED 5/19/04.
	DHS 22APPOINTMENT LETTERS DATED 6/22/04 & 7/29/04.
	RIGHTS & RESPONSIBILITIES: EVALUATION OF CLIENT=S UNDERSTANDING OF AGENCY POLICY AND RECOMMENDATIONS.
	I RECOMMEND 12 MONTHS SANCTION FROM THE FOOD STAMP BENEFITS, CLIENT HAS RECEIVED BENEFITS SINCE 11/1985 AND NUMEROUS APPLICATIONS AND RIGHTS & RESPONSIBILITES HAVE BEEN READ AND SIGNED, ACCEPTING RESPONSIBILITIES TO REPORT CHANGES.
	I RECOMMEND A SANCTION FROM THE FOOD STAMP BENEFITS FOR A PERIOD OF 12 MONTHS BE APPLIED, IN COMPLIANCE WITH FEDERAL REGISTER ARTICLE 273.16, ALSO REPAYMENT BE MADE IN ACCORDANCE WITH CHAPTER 20.2 BY COUPON REDUCTION, LUMP SUM PAYMENT OR MONTHLY PAYMENT. IF CLAIM BECOMES DELINQUENT IT WILL BE SUBJECT TO TAX INTERCEPT. DHS-20
	4) Ms did not attend the scheduled Administrative Disqualification Hearing. She called the State Hearing Officer after the hearing and explained that, she could not attend due to an accident occurring at her brother's home. The State Hearing Officer requested a written statement for the record. As of the date of this decision, the State Hearing Officer has not received a written statement from Ms
VIII.	CONCLUSIONS OF LAW:
	The testimony and supporting documentation indicate that Ms failed to unearned income for the period covering June 1997 through April 1999. This ed in an over issuance of Food Stamp Benefits in the amount of \$5,197.00.
IX.	DECISION:
	It is the decision of this State Hearing Officer that Ms committed an Intentional Program Violation. She will be sanctioned from the Food Stamp Program for a period of one (1) year. The sanction will be effective December 2005.
Χ.	RIGHT OF APPEAL:

See Attachment

The Claimant's Recourse to Hearing	g Decision	
Form IG-BR-29		
ENTERED this 13th Day of October, 20	05.	
	Ray B. Woods, Jr., M.L.S. State Hearing Officer	

XI.

ATTACHMENTS: