



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
Post Office Box 1736
Romney, WV 26757**

**Joe Manchin III
Governor**

**Martha Yeager Walker
Secretary**

July 11, 2005

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 16, 2005. Your hearing request was based on the Department of Health and Human Resources' claim that you have 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 Stamp program is based on current policy and regulations. Some of these regulations state as follows: 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 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 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,g of the WV Income Maintenance Manual and 7 CFR Section 273.16 .

The information submitted at your hearing revealed that on two Food Stamp reviews, you withheld information regarding your employment with the town of Granville.

It is the decision of the State Hearings Officer to uphold the action of the Department to apply a Food Stamp Sanction to your case for an intentional program violation.

Sincerely,

Sharon K. Yoho
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Roger Kimble, Repayment Investigator

Presiding at the Hearing was Sharon K. Yoho, 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 has committed an act of intentional program violation.

V. APPLICABLE POLICY:

Common Chapters Manual, Chapter 700, Appendix A, Section B
West Virginia Maintenance Manual Section 1.2; 1.4;9.1;20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Mail in Food Stamp review dated October 10, 2003
- D-2 Case comments dated October 10, 2003 thru November 3, 2003
- D-3 Food Stamp review dated October 5, 2004
- D-4 Wage verification for 2nd quarter 2003 thru 3rd quarter 2004
- D-5 Food Stamp claim determination June 2003 thru August 2004
- D-6 Food Stamp claim determination October 2004 thru November 2004
- D-7 West Virginia Maintenance Manual Sections 1.2; 2.2; 9.1; 20.2
- D-8 Wage data for 4th quarter 2004 and 1st quarter 2005

VII. FINDINGS OF FACT:

- 1) _____ had been receiving Food Stamp for several years as an SSI recipient. The income counted in his case had been his SSI income only.
- 2) Mr. _____ completed a mail in Food Stamp review on October 10, 2003. He indicated that there was no change in the income in his home. He did not check the statement, which reads: You begin receiving income from another source.
- 3) On October 5, 2004, the claimant completed a review of his Food Stamps in the office. He reported \$564. SSI income as his only income.
- 4) On both the October 2003 review and the October 2004 review, the claimant was made aware of his obligations to report accurate information and the consequences of not doing so.
- 5) On October 21, 2004, the caseworker received a computer data exchange alert that showed Mr. _____'s SSI amount had been reduced to \$6.00. The worker called the

Social Security Administration and obtained information regarding Mr. _____'s employment with the town of Granville.

- 6) Income verification was obtained from the employer showing steady income. Income reported for the month of September 2003 was \$576. and \$1200 for October 2003. Data exchange shows the income has continued through the 1st quarter of 2005.
- 7) **WV Income Maintenance Manual Policy § 1.2, states:** The client's responsibility is to provide information about his circumstances so the Worker is able to make a correct decision about his eligibility.
- 8) **WV Income Maintenance Manual Policy § 1.4, states:** Individuals who have committed an Intentional Program Violation (IPV) are ineligible for a specified time, determined by the number of previous (IPV) disqualifications.
- 9) **WV Income Maintenance Manual Policy § 20.2 states:** Intentional Program Violations include making false or misleading statements, misrepresentations, concealing or withholding information.
- 10) **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.
- 11) **According to policy in WV Income Maintenance Manual Section 9.1,A,2,g,** 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

VIII. CONCLUSIONS OF LAW:

- 1) Policy 20.2 is clear that the intentional withholding of information is considered a violation of the Food Stamp program.
- 2) Policy 1.4 and 9.1 stipulates that if an intentional program violation has been committed, a disqualification penalty must be applied. The disqualification for a first time offense is twelve months.
- 3) There was clear and convincing evidence presented to support the agency's belief that the defendant has committed and act of intentional program violation as it is outlined in Chapter 700.

IX. DECISION:

It is the finding of the Hearing Officer that the defendant was aware of the obligation to report all household income however; he chose to withhold information regarding his employment. It is the ruling of the Hearing Officer that the defendant has committed an act of intentional program violation. It is the ruling of this Hearing Officer that Mr. _____ be disqualified from participation in the Food Stamp program for twelve (12) months beginning with August 2005.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 11th Day of July 2005.

Sharon K. Yoho
State Hearing Officer