



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
4190 Washington Street West  
Charleston, WV 25313

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

September 12, 2005

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

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 21, 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 earned income in a timely manner.

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 November 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  
Danita Bragg, 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 September 12, 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 convened on June 21, 2005 on a timely appeal filed May 9, 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:**

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. 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:**

- D A D H Summary
- D-1 Food Stamp Claim Determination
- D-2 Food Stamp Issuance History – Disbursement
- D-3 Food Stamp Allotment Determination
- D-4 Rights and Responsibilities dated 07/22/03
- D-5 Employer Verification Letter dated 11/17/04
- D-6 WVIMM Chapter 2.2 B REPORTING REQUIREMENTS
- D-7 WVIMM Chapter 20.2 FOOD STAMP CLAIMS AND REPAYMENT PROCEDURES
- D-8 42 CFR 273.16 DISQUALIFICATION FOR INTENTIONAL PROGRAM VIOLATION
- D-9 IG-BR-30; IG-BR-31; IG-BR-44 and; IG-BR-44a

**Claimants' Exhibits:**

- C-1 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. Bragg submitted the following A D H Summary:

**I. IDENTIFYING INFORMATION**

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

ADDRESS: \_\_\_\_\_ AGE: 30

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

WORKERS INVOLVED DURING PERIOD IN QUESTION: WW2031, WS2001, WW2046.

**II. CASE DATA**

DATE OPENED: 07/22/03 DATE CLOSED: N/A

OVERPAYMENT PERIOD: October 1, 2003 through April 30, 2004

AMOUNT OF FOOD STAMPS OVER ISSUED: \$1,385.00

ELIGIBILITY FACTOR INVOLVED: Unreported earned income which resulted in over issuance of Food Stamps.

**III. SUMMARY OF FACTS**

On August 19, 2004, the Investigations and Fraud Management Unit received a referral for TANF repayment on the case of \_\_\_\_\_. The reason for the over payment referral was unreported income in the home. It was also determined that there was a Food Stamp over issuance. Ms. \_\_\_\_\_ applied for Food Stamps on July 22, 2003, reporting she had moved to West Virginia from \_\_\_\_\_, \_\_\_\_\_. On August 7, 2003, Ms. \_\_\_\_\_ reported starting to work at CVS on July 19, 2003. On August 26, 2003, Ms. \_\_\_\_\_ reported her last day of work at CVS was August 14, 2003. This was verified. Ms. \_\_\_\_\_ had been in touch with WV DHHR several times requesting a duplicate medical card, another EBT card, etc. On October 22, 2003, the WV DHHR received a phone call from \_\_\_\_\_ informing us that benefits were being received for Ms. \_\_\_\_\_'s son in WV as well as \_\_\_\_\_. \_\_\_\_\_ was pursuing repayment of these benefits. On March 24, 2004, Ms. \_\_\_\_\_ contacted the WV DHHR to report a change of address. During all contacts with Ms. \_\_\_\_\_ her employment with Caring Heart & Home was never reported. Because of the nature of the claim, it has been pursued as an Intentional Program Violation (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 the Administrative Disqualification Hearing (ADH). This ADH has been requested to establish an IPV with a one (1) year sanction from the Food Stamp program, with repayment of the over issued Food Stamps in the amount of \$1,385 resulting from her IPV.

**DHS-1:** Agency Form ES-FS-5a, Food Stamp Claim Determination Form. 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 Food Stamp allotments with the excluded eligibility factor, which, in this case is unreported earned income. The total overpayment of \$1,385 for this claim period is shown at the bottom of the form, inside the block marked "Loss to Program".

the RAPIDS Computer System. These screen prints show to Ms. \_\_\_\_'s household during the claim months. The Amt" correspond with the actual coupon allotments in

**DHS-2:** IQFS Screen Prints from the amount of Food Stamps issued amounts under the heading "Issued DHS-1.

**DHS-3:** EFAD Screen Prints from the RAPIDS Computer System. The 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 earned income.

**DHS-4:** Copy of Rights and Responsibilities signed by Ms. \_\_\_\_ July 22, 2003. On this form Item 33 states: I agree to let the local Department of Health and Human Resources office know within 10 days if: Note: Does not apply to Food Stamp Households with a working adult. B) Anyone obtains/loses Employment. C) There are changes in my household's amount of unearned income or gross monthly income. I understand that failure to provide this information may result in a penalty or sanction. 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 received. I may also be prosecuted for fraud and I understand that any information given is subject to verification by an authorized representative of the DHHR. Also, it is understood 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.

**DHS-5:** Copy of Income Verification. This form shows that Ms. \_\_\_\_ was employed with A Caring Heart and Home on August 19, 2003 and terminated April 15, 2004. Ms. \_\_\_\_ worked 40 hrs per week.

**DHS-6:** Copy of Income Maintenance Manual Chapter 2.2B - Reporting Requirements.

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

**DHS-8:** Copy of Federal Guidelines, Food and Nutrition Services, USDA, Section 273.16,

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

This client has received benefits through the WV DHHR since July 22, 2003. She has reported changes in employment, addresses, etc. She has also received Food Stamp benefits in \_\_\_\_\_. She is aware and has been informed of the need to report accurate information during application and reviews. For these reasons we are asking that a first offense, 12 month IPV sanction be applied against Ms. \_\_\_\_\_. Additionally repayment of \$1,385 in over issued food stamps is requested.

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

**VIII. CONCLUSIONS OF LAW:**

The testimony and supporting documentation indicates, Ms. \_\_\_\_ failed to report earned income in a timely manner.

**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 November 2005.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 12th Day of September, 2005.**

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**Ray B. Woods, Jr., M.L.S.  
State Hearing Officer**