



**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**

September 8, 2005

Dear Ms. ____I:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 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 a Food Stamp review and a LIEAP application, you withheld information regarding your employment with Teletech.

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

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

____,

Defendant,

v. **Action Number:** _____

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

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a hearing concluded on August 16, 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 fair hearing was convened on August 16, 2005 on a request, filed by the Agency on May 11, 2005.

It should be noted here that any adverse action of the agency has been postponed 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 food stamp benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

III. PARTICIPANTS:

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 Case comments dated August 5, 2003 thru December 16, 2004
- D-2 Case comments dated January 13, 2004
- D-3 Food Stamp review dated January 13, 2004
- D-4 Wage verification for October 2003 thru April 2004
- D-5 Application for Low Income Energy Assistance Program dated November 25, 2003
- D-6 Food Stamp claim determination for November 2003 thru April 2004
- D-7 Claim computations
- D-8 West Virginia Maintenance Manual Policy Sections: 1.2, 1.4, 9.1 & 20.2

VII. FINDINGS OF FACT:

- 1) _____ completed a Food Stamp review on her case August 5, 2003. She reported at that review that she had no household income and that she was seeking employment. Her Food Stamps were approved based on zero income.
- 2) Ms._____ contacted the department on December 1, 2003 to report the birth of her son, _____ and the receipt of Child Support income.
- 3) The defendant applied for the Low Income Energy Assistance Program, (LIEAP), in the month of December 2003 and reported no income.
- 4) On January 13, 2004 the defendant completed another Food Stamp review and reported the only income in the home was Child Support. Ms._____ signed her rights and responsibilities. She was made aware of her responsibility to report accurate information and the possible consequences of disqualification.

- 5) A case worker discovered through a wage match computer check, earnings received by Ms.____ from Teletech in the 4th quarter of year 2003 and 1st quarter of year 2004. This information was provided to the department's Claims and Collection unit.
- 6) The Claims and Collection unit verified through the employer that Ms.____ began full time employment on September 29, 2003 and remained employed thru April 2004. She earned a total of \$6,939.79 from this employment which was not reported to the department when she called to report the birth of her child and the receipt of child support income. It was not reported on her LIEAP application in December 2003. It was also not reported when she completed a Food Stamp review on January 13, 2004.
- 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 intentionally withheld information necessary to compute accurate benefits. The defendant has committed an 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; she chose to withhold information regarding her 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 Ms.____ be disqualified from participation in the Food Stamp program for twelve (12) months beginning with October 2005.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 8th Day of September 2005.

**Sharon K. Yoho
State Hearing Officer**