



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
2699 Park Avenue, Suite 100  
Huntington, WV 25704

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

July 29, 2005

\_\_\_\_\_  
P.O. Box 75  
Ethel, WV 25076

Dear Mr. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your administrative disqualification hearing held July 28, 2005.

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.

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(c)(2) and 9.1 (A)(2)(g) of the WV Income Maintenance Manual and 7 CFR Section 273.16.

The information which was submitted at your hearing revealed that you committed an intentional program violation of the Food Stamp Program by failing to report that your daughter, \_\_\_\_\_, had left your home in November, 2004 causing an overissuance of Food Stamps in the amount of \$500 for the period of November, 2004 through February, 2005.

It is the decision of the State Hearings Officer that you committed an Intentional Program Violation of the Food Stamp Program and you will be individually disqualified from participation in the Food Stamp Program for a period of one (1) year beginning September, 2005.

Sincerely,

Thomas M. Smith  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Brian Shreve, Repayment Investigator



1. Brian Shreve, Repayment Investigator.

Presiding at the Hearing was Thomas M. Smith, 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 of the Food Stamp Program.

**V. APPLICABLE POLICY:**

WV Income Maintenance Manual Section 1.2, 9.1, 20.2.  
Federal Food Stamp Regulations Sections 273.1, 273.16.  
Common Chapters Manual Section 700, Appendix A.

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

- A Copy of federal Food Stamp regulations 273.16 (6 pages).
- B Copy of benefit recovery referral.
- C Copy of Food Stamp Claim determination (10 pages).
- D Copy of case comments 2-2-05 and 3-21-05 (2 pages)..
- E Copy of attendance verification for Washington Elementary School (2 pages).
- F Copy of Combined application/review form 12-30-04 (11 pages).
- F1 Copy of case comments 12-30-04.
- G Copy of case comments 12-30-04 and 1-3-05.
- H Copy of WV Income Maintenance Manual Section 1.2.
- I Copy of WV Income Maintenance Manual Section 2.2 (2 pages).
- J Copy of WV Income Maintenance Manual Section 20.2 (8 pages).
- K Copy of WV Income Maintenance Manual Section 20.6 (2 pages).
- L Copy of notification of intent to disqualify 4-20-05 (4 pages).

**VII. FINDINGS OF FACT:**

- 1) The Investigations and Fraud Management (IFM) Unit received a referral that the defendant had failed to report in a timely manner that his daughter was not living in his home from November, 2004 through February, 2005, causing an overissuance of Food Stamps.
- 2) The defendant was receiving Food Stamps for himself and his daughter, \_\_\_\_\_, when information was received from the Department of Jobs and Family Services in Gallipolis, Ohio that \_\_\_\_\_ was living in Ohio and verification from Washington Elementary School showed that she enrolled in school on 11-1-04.

- 3) A Food Stamp overissuance occurred for the period of November, 2004 through February, 2005 in the amount of \$500 due to the incorrect number reported in the household Assistance Group.
- 4) The defendant had opportunities to report that his daughter had left the home on 12-30-04 when he completed a review of his case and was recertified for Food Stamps and Medicaid for himself and his daughter and on 1-30-05 when he contacted the local office for verification of medical coverage and failed to report that his daughter had left the home.
- 5) The defendant completed an application/review form on 12-30-04 and signed the rights and responsibilities acknowledging his understanding of reporting requirements and the penalties for intentional program violation.
- 6) 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.
- 7) WV Income Maintenance Manual Section 20.2, C, 2 states that once an IPV is established, a disqualification penalty is imposed on the AG member(s) who committed the IPV. See Section 9.1, A, 2, g.
- 8) WV Income Maintenance Manual Section 9.1, A, 2, g states that persons who have been found guilty of an IPV are ineligible as follows: 1<sup>st</sup> offense: 1 year, 2<sup>nd</sup> offense: 2 years, 3<sup>rd</sup> offense: permanent.

#### **VIII. CONCLUSIONS OF LAW:**

- 1) Common Chapters Section 700, Appendix A defines an intentional program violation as having intentionally made a false statement or concealed or withheld facts. The defendant concealed or withheld information about his daughter no longer residing in his home during a redetermination for Food Stamps on 12-30-04 and failed to report that his daughter had left the home on 1-30-05 during another contact with the Department. The defendant committed an intentional program violation which caused a Food Stamp overissuance of \$500 for the period of November, 2004 through February, 2005.

#### **IX. DECISION:**

It is the decision of the State Hearing Officer that the defendant committed an intentional program violation of the Food Stamp Program and he will be individually disqualified from participation in the Food Stamp Program for a period of one (1) year beginning September, 2005.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 29th Day of July, 2005.**

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**Thomas M. Smith**  
**State Hearing Officer**