



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

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

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 earned income from All in Good Taste which caused an overissuance of Food Stamps in the amount of \$382 for the period of January through March, 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



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, 10.3, 10.4, 20.2.  
Federal Food Stamp Regulations Sections 273.9, 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 (12 pages).
- D Copy of case comments 3-8-05.
- E Copy of employment and earnings verification (3 pages).
- F Copy of Combined application/review form 1-10-05 (9 pages).
- F1 Copy of case comments 1-10-05 and 3-8-05 (2 pages).
- G Copy of WV Income Maintenance Manual Section 1.2.
- H Copy of WV Income Maintenance Manual Section 2.2 (2 pages).
- I Copy of WV Income Maintenance Manual Section 20.2 (13 pages).
- J Copy of WV Income Maintenance Manual Section 20.6.
- K Copy of notification of intent to disqualify 5-6-05 (4 pages).

**VII. FINDINGS OF FACT:**

- 1) The Investigations and Fraud Management (IFM) Unit received a referral that the defendant was employed but failed to report the employment and earned income during an application causing an overissuance of Food Stamps.
- 2) The defendant applied for Food Stamps on 1-10-05 and was approved after reporting no income and reported during a Food Stamp review on 3-8-05 that he was employed at All in Good Taste and the caseworker verified with the owner that the defendant had been employed there since 11-19-04.
- 3) A Food Stamp overissuance occurred for the period of January through March, 2005 in the amount of \$382 due to the unreported earned income.

- 4) The defendant reported during the application interview on 1-10-05 that he worked only two (2) weeks at All in Good Taste but then quit while the verification from the employer dated 5-2-05 showed that the defendant started working on 11-19-04 and worked continuously through 4-8-05.
- 5) The defendant completed an application/review form on 1-10-05 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 reported during a Food Stamp application on 1-10-05 that he worked only two (2) weeks for All in Good Taste and quit but the employer verified that the defendant worked from 11-19-04 through 4-8-05. The defendant concealed or withheld information about his employment at All in Good Taste on 1-10-05 and this act constitutes an intentional program violation of the Food Stamp Program. The claimant committed an intentional program violation which caused a Food Stamp overissuance of \$382 for the period of January through March, 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**