



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

November 29, 2005

Ms. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 18, 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 were aware of your responsibility to report any changes affecting your household, as verified by your signature on the Rights and Responsibilities section of the June 2, 2004 application. The record clearly states that you intentionally withheld facts about unearned income while receiving Food Stamp Benefits. This resulted in an over issuance of Food Stamp Benefits in the amount of \$1,551.00 for the period covering June 2004 through May 2005.

It is the decision of this State Hearing Officer 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 January 2006.

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: 05-BOR-6763**

**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 November 29, 2005 for Ms. \_\_\_\_\_. 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 scheduled for November 18, 2005 on a timely appeal filed October 12, 2005. The scheduling notice was issued by certified mail on October 12, 2005. The receipt was signed on October 24, 2005.

It should be noted here that the defendant was not receiving Food Stamp Benefits at the time of the hearing. A pre-hearing conference was not held between the parties prior to the hearing and; Ms. \_\_\_\_\_ did not have legal representation. Ms. \_\_\_\_\_ did not attend the scheduled hearing.

**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:**

Mrs. Dania 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-1 Food Stamp Claim Determination
- D-2 Food Stamp Calculation Sheet
- D-3 Food Stamp Issuance History – Disbursement
- D-4 Food Stamp Allotment Determination
- D-5 Application dated 06/02/04
- D-6 RSDI Payment History
- D-7 WVIMM 20.2 FOOD STAMP CLAIMS AND REPAYMENT PROCEDURES
- D-8 CFR § 273.16 Disqualification for intentional Program Violation
- D-9 IG-BR-30; 31; 44 & 44a
- D-10 ADH Summary

**Claimants' Exhibits:**

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. Danita Bragg's Administrative Disqualification Hearing Summary:

**I. IDENTIFYING INFORMATION**

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

ADDRESS: \_\_\_\_\_

AGE: 56

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

WORKERS INVOLVED DURING PERIOD IN QUESTION: EW1058 - Stephanie Cyrus, EW1001 - Gloria Adkins, EW1054 - Sara Trent, EW1005 - Kathy Jarrell, EW1045 - Chris Watts, and IFM419 - Danita Bragg.

**II. CASE DATA**

DATE OPENED: 06/02/04 DATE CLOSED: 06/16/05

OVERPAYMENT PERIOD: June 2, 2004 through May 31, 2005

AMOUNT OF FOOD STAMPS OVERISSUED: \$1,551

ELIGIBILITY FACTOR INVOLVED: Unreported income in the form of Social Security Disability which resulted in over issuance of Food Stamps.

**III. SUMMARY OF FACTS**

On May 12, 2005 the Investigations and Fraud Management Unit received a referral for repayment on the case of \_\_\_\_\_. The reason for the over payment referral was unreported income in the home due to Ms. \_\_\_\_\_ not reporting receipt of Social Security Disability since March 2003. This means during application interview held June 2, 2004, and each review conducted afterwards, Ms. \_\_\_\_\_ did not give correct information. Ms. \_\_\_\_\_ stated she had applied for SSI. Also stated family was paying her bills. The Social Security Administration provided verification that Ms. \_\_\_\_\_'s entitlement start date was December 2002 but first payment was not received until March 2003. 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, or 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 \$1,551 resulting from her IPV.

**DHS-1:** Agency Form ES-FS-5, 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 income. The total overpayment of \$1,551 for this claim period is shown at the bottom of the form, inside the block marked "Loss to Program."

**DHS-2:** Agency Form ES-FS-5a, Food Stamp Calculation Sheet. This form shows an itemized breakdown of the over issuance shown in DHS-1. The "Corrected" side of the form corresponds with the "Corrected" side of the ES-FS-5 (DHS-1). The "Actual" side is shown in the EFAD screen prints from the RAPIDS computer system (DHS-4).

**DHS-3:** IQFS Screen Prints from the RAPIDS Computer System. These screen prints show the amount of Food Stamps issued to Ms. \_\_\_\_\_'s household during the claim months. The amounts under the heading "Issued Amt" correspond with the actual coupon allotments in DHS-1 and DHS-2.

**DHS-4:** EFAD Screen Prints from the RAPIDS Computer System. This screen print shows the calculation of the Food Stamp allotments at the time they were issued. They do not include the incorrect eligibility factor of unreported income. They are the basis of the "Actual" side of the ES-FS-5a (DHS-2).

2, **DHS-5:** Copy of CAF and Rights and Responsibilities. Signed by Ms. \_\_\_\_\_, June 2004, stating there was no income in the household. On the Rights and Responsibilities Item 6 states: I understand if I am found (by court action or an Administration Disqualification Hearing) to have committed an act of Intentional Program Violation, I will not receive Food stamp benefits as follows: First Offense - One year, Second Offense -two years, Third Offense - Permanently. In addition, I will have to repay any benefits I receive for which I was not eligible. 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 receive. 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 of any other fraudulent device can be charged with fraud. Punishment upon conviction may be a fine up to \$5,000 and/or a jail sentence of 5 years in jail. For the Food Stamp Program Only - Federal penalties may include a maximum fine of \$250,000 and a jail sentence up to 20 years.

**DHS-6:** Copy of verification from Social Security Administration. This shows Ms. \_\_\_\_\_ has received Social Security Disability since March 2003.

**DHS-7:** Copy of Income Maintenance Manual Chapter 20.2 (Repayment of Food Stamps).

**DHS-8:** Copy of Federal Guidelines, Food and Nutrition Services, USA Section 273.16 & CFR Ch. 11, Pages 741 -762.

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

1997. Ms. \_\_\_\_\_ has participated in the food stamp program sporadically since August. She has reported changes and information in the past. She is aware and has been informed of the need for accurate information during applications and reviews. For this reason we are asking that a first offense, 12 month IPV sanction be applied against Ms. \_\_\_\_\_. Additionally repayment of \$1,551 in over issued food stamps is requested.

**VIII. CONCLUSIONS OF LAW:**

Common Chapters Manual, Chapter 700, Appendix A, Section B, states, “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.”

Ms. \_\_\_\_\_ was aware of her responsibility to report any changes affecting her household, as verified by her signature on the Rights and Responsibilities section of the June 2, 2004 application. The record clearly states that she intentionally withheld facts about unearned income while receiving Food Stamp Benefits. This resulted in an over issuance of Food Stamp Benefits in the amount of \$1,551.00 for the period covering June 2004 through May 2005.

**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 January 2006.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 29<sup>th</sup> Day of November, 2005.**

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