



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 14, 2005

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

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 25, 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 October 26, 2004 Food Stamp application. The record clearly states that you had an opportunity to report to the Department, the onset of Workman's Compensation income, on at least three (3) separate occasions. Your allegations that you reported the Workman's Compensation to the Department and the SPOKES representative were not supported through documentation. This resulted in an over issuance of Food Stamp Benefits in the amount of \$1,370.00 for the period covering December 2004 through April 2005.

It is the decision of this State Hearing Officer that you acted to commit an Intentional Program Violation, by misrepresenting facts about the onset of unearned income and, failed to report such changes in a timely manner. 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; Jennifer Butcher, Repayment Investigator

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

\_\_\_\_\_,

**Defendant,**

v.

**Action Number: 05-BOR-6615**

**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 14, 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 October 25, 2005 on a timely appeal filed September 15, 2005.

It should be noted here that the defendant was 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. \_\_\_\_\_ called the State Hearing Officer on October 24, 2005 to reschedule the hearing because she was still recovering from a July 2005 automobile accident. The request was denied since it was not received within ten (10) days of the scheduled hearing. The Scheduling Notice, (IG-BR-31), was mailed on September 15, 2005. Ms. \_\_\_\_\_ requested the hearing to be conducted by conference call. Ms. \_\_\_\_\_ was advised at the hearing that, she did not have to provide testimony. If she chose not to provide testimony, the decision will be based solely on the information provided by the Department.

**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:**

\_\_\_\_\_, Defendant\*  
Jennifer Butcher, Repayment Investigator  
\*Participated by conference call

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 Application dated 10/26/04
- D-2 Case Comments 11/04/04
- D-3 Case Comments 11/08/04 & 11/18/04
- D-4 Time Sheets 11/04 & 12/04
- D-5 Case Comments 04/11/05 & Referral to IFM
- D-6 Workers Compensation Printout
- D-7 Food Stamp Claim Determination
- D-8 Notification of Intent to Disqualify dated 08/30/05
- D-9 Rights and Responsibilities dated 10/26/04
- D-10 ADH Summary
- D-11 IG-BR-30; 31; 44; 44a

**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. Jennifer Butcher's Administrative Disqualification Summary:

**I. IDENTIFYING INFORMATION**

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

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

AGE: 31

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

WORKERS INVOLVED DURING PERIOD IN QUESTION: Jermaine Streets, Vonda Spencer, Tammy Mabe, and Anita Kuhn.

**II. CASE DATA**

DATE OPENED: February 24, 2004 DATE CLOSED: Still active

OVERPAYMENT PERIOD: December 2004 through April 2005

ELIGIBILITY FACTOR INVOLVED: Client failed to report Workman Compensation Income.

**III. SUMMARY OF FACTS**

The Investigation Fraud Unit received a referral from the Income Maintenance Unit that, \_\_\_\_\_ failed to report the onset of her Workman's Compensation in November 2004. Because of this unreported unearned income an over issuance of Food Stamps occurred for the period of December 2004 through April 2005.

The West Virginia Department Health and Human Resources requested this hearing for the purpose of determining that \_\_\_\_\_ committed an Intentional Program Violation (IPV). The Federal Register, Article 273.16c defines an IPV as (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 Program Regulations, or any state statute relating to the use, presentation, acquisition receipt, or possession of Food stamps coupons or ATP's.

**EXB-1** ES-2 dated October 26, 2004 was an application for Food Stamps and WV Works benefits. At that time she read or had read to her the Rights and Responsibilities (R&R) and she signed agreeing to the aforementioned.

**EXB-2** CMCC dated November 4, 2004 Client was in office to apply for Emergency Assistance. Client was not eligible since she had received benefits in the last 12 months.

**EXB-3** CMCC dated November 8, 2004. Client in office inquiring about her WV Works benefits. On November 18, 2004 client called reporting daughter had not received her Medical Card.

**EXB-4** Client turned in Time Sheets from Spokes for the months of November and December 2004.

**EXB-5** Worker was clearing alerts and discovered that Ms. \_\_\_\_\_ has been receiving Workman's Compensation benefits. A referral was made to the Claims and Collection Unit on April 11, 2005 for the Works check and Food Stamp benefits

**EXB-6** Workman's Compensation Printout indicated Ms \_\_\_\_\_ started receiving her Workman's Compensation on November 1, 2004 with back pay, for the months of September and October 1-17 for \$1,794.39. Another back pay check was received on December 2, 2004 for October 18 through November 28 in the amount of \$1,932.42. Her regular payments started on December 13, 2004 at \$644.14 every two weeks.

**EXB-7** Food Stamp Claim Calculation Sheet showing the amount of Food Stamps client received and the amount she should have received, if she reported income in a timely manner.

**EXB-8** The IG-BR-44 and 44a dated August 30, 2005 were mailed to the client at \_\_\_\_\_. The IG-BR-44 was completed and returned on September 12, 2005 requesting an administrative hearing. The paper work was forwarded to the State Hearings Officer.

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

Ms. \_\_\_\_\_ has been receiving benefits from the Department since April 2004. Exhibits 2 and 3 document that, the client would contact the Department when she had a problem or, if she never received benefits.

According to the R&R she read or had read to her at each application or review and, she was informed to report changes within 10 days. Also in Chapter 2.2 of the Income Maintenance Manual it states that a change must be reported within 10 days of the date the change becomes known to the benefit group. See EXB-9

I am requesting that a 12 month Sanction be placed on \_\_\_\_\_ for the first offence of an Intentional Program Violation for failure to report the onset of her Workman's Compensation in November 2004. I am also requesting her to repay the amount of \$ 1,370.00.

4) Ms. \_\_\_\_\_ provided testimony that she contacted her Case Worker, Mr. Jermaine Streets in November 2004 and, reported her receipt of Workman Compensation benefits. There were no recordings in the Case Comments to support Ms. \_\_\_\_\_'s testimony of reporting unearned income. It should be noted that Mr. Streets is no longer employed by the WV DHHR. Ms. \_\_\_\_\_ also provided testimony that the SPOKES office was aware of her Worker's

Compensation benefits. Again, there was no supporting documentation. The State Hearing Officer directed Mrs. Butcher to send Ms. \_\_\_\_\_ a copy of the hearing exhibits due to the lateness of the conference call request. Ms. \_\_\_\_\_ was given ten (10) days from the date of the hearing to submit any written response. As of the date of this decision, additional comments were not received from Ms. \_\_\_\_\_.

#### **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 October 26, 2004 Food Stamp application. The record clearly states that Ms. \_\_\_\_\_ had an opportunity to report to the Department, the onset of Workman’s Compensation income, on at least three (3) separate occasions. Ms. \_\_\_\_\_’s allegation that she reported the Workman’s Compensation to the Department and the SPOKES representative were not supported through documentation.

Ms. \_\_\_\_\_ committed an intentional program violation by misrepresenting her household income and, by failing to report the onset of unearned income in a timely manner. This resulted in an over issuance of Food Stamp Benefits in the amount of \$1,370.00 for the period covering December 2004 through April 2005.

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

It is the decision of this State Hearing Officer that Ms. \_\_\_\_\_ acted to commit an Intentional Program Violation, by misrepresenting facts about the onset of her unearned income and, failed to report such changes in a timely manner. 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 14th Day of November, 2005.**

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