



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

February 20, 2007

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

Dear Ms. \_\_\_\_\_,

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 5, 2007. 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 did conclude that you committed an intentional program violation by withholding information regarding your employment and earned income.

It is the decision of the State Hearings Officer to **uphold** the proposed action of the Department to apply a Food Stamp Sanction to your case for an intentional program violation and to collect the overpayment which resulted.

Sincerely,

Sharon K. Yoho  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Karen Crossland, Repayment Investigator

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

\_\_\_\_,

**Defendant,**

v.

**Action Number: 06-BOR-3487**

**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 February 5, 2007 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 Administrative Disqualification hearing was convened on February 5, 2007 on a request, filed by the Agency on December 28, 2006.

It should be noted here that any adverse action of the agency has been postponed pending a hearing decision. The claimant did not appear for the hearing after being properly notified of the hearing date and time.

**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:**

Karen Crossland, 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; and 20.2

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

#### **Department's Exhibits:**

- D-1 Food Stamp claim determination
- D-2 Food Stamp Application form dated May 27, 2005
- D-3 Notification of Food Stamp approval dated May 31, 2005
- D-4 Re-application dated November 7, 2005 and screening form
- D-5 Case comments November 7, 2005
- D-6 Verification of employment and earned income dated June 28, 2006
- D-7 WV Income Maintenance Policy 1.2
- D-8 WV Income Maintenance Policy 9.1
- D-9 WV Income Maintenance Policy 20.1

### **VII. FINDINGS OF FACT:**

- 1) The defendant applied for Food Stamps on May 27, 2005. During this application, the defendant was made aware of her rights and responsibilities as a recipient/applicant of the Food Stamp program. She was advised of her obligation to report accurate information.
- 2) The Department sent the defendant an approval letter dated May 31, 2005, which also advised the applicant that she must contact the office if the household income increases to more than \$1354.
- 3) The defendant began employment on October 1, 2005 at [REDACTED]. She received her first pay on October 14, 2005 of \$911.63 and her second pay on October 28, 2005 of \$1995.38.

- 4) The defendant returned to the Department on November 7, 2005 to complete a Food Stamp application after missing her October scheduled review. She was again advised of her obligations to report accurate information. She completed a screening form on that day. On this form, she entered a NO answer to question #13, which states: "Is any member of your household employed?" A caseworker, responding to the defendant's answers to questions, completed the re-application. The defendant did not report her employment and earnings. The worker's case comments of that day state: "Client states no income". Employment verification obtained by the Repayment Investigator in June, 2006 shows earnings beginning October 14, 2006 and continuing through January 2006.
- 5) The defendant was made aware of her responsibility to report accurate information. She was also advised of the consequences for intentionally giving false information or withholding information.
- 6) **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.
- 7) **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.
- 8) **WV Income Maintenance Manual Policy § 20.2 states:** Intentional Program Violations include making false or misleading statements, misrepresentations, concealing or withholding information.
- 9) **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.
- 10) **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 and the making of false statements are considered to be in 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) The defendant did have an obligation to report her earned income and it is clear that she intentionally withheld information regarding her employment and earned income.
- 4) The defendant withheld information about her earnings during her November application. She made a false statement on the screening form for this application. Evidence and testimony is clear and convincing that the defendant made false statements and intentionally withheld information necessary for the Department to accurately determine eligibility for the Food Stamp program.

**IX. DECISION:**

It is the finding of this Hearing Officer that the defendant did commit an intentional program violation, IPV, by making a false statement and by withhold information necessary for accurate computation of Food Stamp benefits. It is the ruling of this Hearing Officer to **uphold** the Department's proposed action to impose a 12 month sanction for this IPV. This sanction is to begin on April 1, 2007. The Food Stamp claim is to be established as an Intentional Program Violation claim and collected as such.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 20th Day of February 2007.**

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**Sharon K. Yoho  
State Hearing Officer**