



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
4190 West Washington Street  
Charleston, West Virginia 25313

Joe Manchin III  
Governor

Secretary

February 15, 2005

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

Dear Ms. \_\_\_\_\_;

Attached is a copy of the findings of fact and conclusions of law on your administrative disqualification hearing held December 21, 2004.

In arriving at a decision, the State Hearing 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 9.1 (A)(2)(f) of the WV Income Maintenance Manual and 7 CFR Section 273.16).

The information submitted at the hearing revealed that: You failed to report being incarcerated while receiving Food Stamp Benefits. This resulted in an over issuance of \$1,556.00 in Food Stamp Benefits. The overpayment period covers January 2004 through April 2004.

It is the decision of the State Hearing Officer, to uphold the Department's proposal, that you did commit an Intentional Program Violation. You will be sanctioned from the Food Stamp Program for a period of twelve (12) months. The sanction will be effective April 2005.

Sincerely,

Ray B. Woods, Jr., M.L.S.  
State Hearing Officer  
Member, State Board of Review

cc: State Board of Review  
Bennie Cogar, Criminal Investigator

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

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

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

**SUMMARY AND 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 February 15, 2005.

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 originally convened on December 21, 2004, on a timely appeal filed by the Department on October 26, 2004.

It should be noted here that, the defendant is a current recipient of Food Stamp Program Benefits.

All persons giving testimony were placed under oath.

**II. PROGRAM PURPOSE**

The Food Stamp Program is set up cooperatively between the Federal and State Government and administered by the West Virginia Department of Health and 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 coupons to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

**III. PARTICIPANTS**

Bennie Cogar, Criminal Investigator  
Lynn McCourt, Repayment Investigator (Observing)

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. QUESTION(S) 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**

Common Chapters Manual, Chapter 700, Appendix A, Section B and; WV Income Maintenance Manual Section 9.1 (A)(2)(f)

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED**

- D ADH Hearing Summary
- D-1 Combined Application and Review Form dated 10/23/03
- D-2 Case Comments 12/11/03 – 05/14/04
- D-3 Booking History – Magistrate Clerk’s Office
- D-4 Cash Assistance Claim Determination
- D-5 Food Stamp Claim Determination
- D-6 Notice of Intent to Disqualify dated 09/10/04
- D-7 IG-BR-30; IG-BR-31 & IG-BR-44
- D-8 GroupWise Message from Mr. Cogar to State Hearing Officer re: Appearance

**VII. FINDINGS OF FACT**

- Mr. Cogar submitted the following ADH Hearing Summary:

**Client Data:**

Case Name: \_\_\_\_\_  
Certificate Number: \_\_\_\_\_  
Address: \_\_\_\_\_  
Economic Service Worker(s) Involved: Kim Waugh, ESW; Amber Kroening, ESW; Anita Kuhn, ESW; Rhonda McKown, Repayments Investigator

**Case Data:**

CHIPS application/review dated 04/29/04.  
  
Verification from Magistrate’s Office that \_\_\_\_\_ was incarcerated 12/02/03 thru 04/18/04.  
  
WVW Screening Forms dated 05/14/04 and 05/24/04.  
  
ES-2 dated 06/01/04.

**Specifics:**

FEFU reported to Kanawha County DHHR that \_\_\_\_\_ was incarcerated 09/03 thru 12/11/03. Magistrate’s office verified that she was incarcerated 12/02/03 thru 04/18/04.

Household over-issued \$1005.00 in WVW benefits as \_\_\_\_\_ failed to report that she was incarcerated. Household was totally ineligible for WVW benefits received.

Household also over-issued \$1556.00 in food stamps for 01/01/04-04/31/04 as \_\_\_\_\_ failed to report that she was incarcerated. Ineligible for benefits 1/04 through 3/04 as no adult household member in the home. Benefits for 04/04 were prorated from 04/18/04 when \_\_\_\_\_ was added back into the home.

**Summary:**

I am requesting this hearing so that both \_\_\_\_\_ and the WV DHHR can present whatever evidence they have. I request that the evidence be reviewed and a determination be made regarding the Intentional Program Violation as described by Policy. If it is found that an IPV has been committed that a 12 period of disqualification be imposed.\

- Ms. \_\_\_\_\_ did not attend the Administrative Disqualification Hearing.

**VIII. CONCLUSIONS OF LAW**

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.

**IX. DECISION**

It is the decision of this State Hearing Officer that, \_\_\_\_\_ committed an Intentional Program Violation. Based on the information submitted at the hearing, Ms. \_\_\_\_\_ failed to report information that would affect her Food Stamp Benefits.

Ms. \_\_\_\_\_ will be sanctioned from the Food Stamp Program for a period of twelve (12) months and, must repay \$1,556.00 in over issued Food Stamp Benefits.

**X. RIGHT OF APPEAL**

See Attachment.

**XI. ATTACHMENTS**

The Claimant's Recourse to Hearing Decision.