



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

October 13, 2005

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

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 13, 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 failed to report unearned income in a timely manner. This resulted in an over issuance of Food Stamp Benefits in the amount of \$5,197.00 for the period covering June 1997 through April 1999.

It is the decision of the State Hearings Officer to UPHOLD the PROPOSAL of the Department 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 December 2005.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review; Debbie Roberts, Repayment Investigator

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

\_\_\_\_\_,

**Defendant,**

v.

**Action Number:** \_\_\_\_\_

**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 October 13, 2005 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 originally scheduled for August 30, 2005 on a timely appeal filed July 13, 2005. Mrs. Roberts was unable to attend the hearing and it finally convened on September 13, 2005.

It should be noted here that the defendant's benefits have been continued pending a hearing decision.

**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:**

Jennifer Butcher, Repayment Investigator  
Deborah Cooper, 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. 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:**

- DHS-1 Benefit Recovery Referral dated 04/15/05
- DHS-2 WVIMM Section 1.2 E CLIENT RESPONSIBILITY
- DHS-3 Food Stamp Claim Determination
- DHS-4 7CFR273.16 Disqualification for intentional program violation
- DHS-5 Case Comments 06/16/97
- DHS-6 Case Comments 07/17/97
- DHS-7 Case Comments 07/30/97 and Application dated 07/30/97
- DHS-8 Disposition of Medical ID Card/Check FS Request dated 10/16/97
- DHS-9 Application dated 02/10/98
- DHS-10 Rights and Responsibilities dated 02/10/98
- DHS-11 Case Comments 09/01/98
- DHS-12 Rights and Responsibilities dated 08/31/98
- DHS-13 Case Comments 02/26/99
- DHS-14 Application dated 02/25/99
- DHS-15 Rights and Responsibilities dated 02/25/99
- DHS-16 Case Comments dated 04/09/99
- DHS-17 Case Comments 04/14/99
- DHS-18 Case Comments 05/25/99
- DHS-19 WVIMM Section 2.2 B REPORTING REQUIREMENTS
- DHS-20 WVIMM 20.6 Benefit Repayment
- DHS-21 Notification of Intent to Disqualify dated 05/19/05

DHS-22 Request for Pre-Hearing Conference dated 05/27/04  
DHS-23 WVIMM Section 20.1 INTRODUCTION  
DHS-24 Case Household Information  
DHS-25 ADH Hearing Summary  
DHS-26 IG-BR-30; IG-BR-31; IG-BR-44; Rescheduled Notice  
DHS-27 GroupWise Message re: Hearing

**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. Butcher submitted the following A D H Summary on behalf of Mrs. Roberts:

**IDENTIFYING INFORMATION**

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

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

AGE: DOB- \_\_\_\_\_

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

WORKER INVOLVED DURING PERIOD IN QUESTION: BRENDA TOPPINGS,  
MILDRED BLECHER, STEVE HILL & LAUREL HENSON.

**CASE DATA**

DATE OPENED: 111/1/85

DATE CLOSED: ACTIVE

OVERPAYMENT PERIOD: 6/97 THRU 4/99

OVER ISSUED AMOUNT: \$5197.00

ELIGIBILITY FACTO INVOLVED: FAILURE TO REPORT AND VERIFY WAIVER  
INCOME TIMELY.

## SUMMARY OF FACTS

DHS-1\_\_\_\_\_THE IFM UNIT RECEIVED A REFERRAL FROM THE CI UNIT THAT CASE DOES NOT MEET DOLLAR AMOUNT FOR CRIMINAL PROSECUTION. CLAIM ESTABLISHED DUE TO WAIVER INCOME NOT REPORTED OR VERIFIED TIMELY.

DHS-2\_\_\_\_\_CHAPTER 1.2 E STATES IT IS THE CLIENT'S RESPONSIBILITY TO PROVIDE INFORMATION ABOUT HIS CIRCUMSTANCES SO THE WORKER IS ABLE TO MAKE A CORRECT DECISION ABOUT HIS ELIGIBILITY. FAILURE TO FULFILL HIS OBLIGATION MAY RESULT IN CASE CLOSURE, DENIAL OF APPLICATION, REDUCTION IN BENEFITS, REMOVAL OF AN INDIVIDUAL OR REPAYMENT OF BENEFITS.

DHS-3\_\_\_\_\_BY NOT REPORTING THE WAIVER INCOME TIMELY BENEFITS WERE OVER ISSUED FOR 6/97 THRU 4/99, AVERAGE WAS CALCULATED FOR AMOUNTS & MONTHS PAID AND FOR MONTHS INTENDED.

DHS-4\_\_\_\_\_THE WVDHHR HAS REQUESTED THIS HEARING TO BE HELD FOR THE PURPOSE OF DETERMINING THAT MS. \_\_\_\_\_ COMMITTED AN INTENTIONAL PROGRAM VIOLATION (IPV). THE FEDERAL REGISTER ARTICLE 273.16 DEFINES AN IPV AS (1) MADE A FALSE OR MISLEADING STATEMENT, OR MISREPRESENTED, CONCEALED OR WITHHELD FACTS, OR (2) COMMITTED AN ACT THAT CONSTITUTES A VIOLATION OF 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.

DHS-5\_\_\_\_\_CMCC DATED 6/16/97 CLIENT IN OFFICE AND STATED SHE HAD NOT RECEIVED 6/97 GRANT-WORKER COMPLETED APPROPRIATE FORMS AND DID REPLACEMENT.

DHS-6\_\_\_\_\_CMCC DATED 7/17/97 CLIENT CALLED OFFICE TO REPORT SHAE HAD NOT RECEIVED HER CHECK, LEFT PAGER # WORKER TRIED TO CALL, LEFT PHONE NUMBER TO CALL WORKER.

DHS-7\_\_\_\_\_CMCC DATED 7/30/97 CLIENT IN OFFICE FOR REVIEW REPORTED PAYS RENT TO HER FATHER, REPORTED OWNS 1987 OLDS, REPORTED CHILDREN ARE ENROLLED IN \_\_\_\_\_ELEMENTARY, STATES WILL TRANSPORT CHILDREN TO \_\_\_\_\_ELEMENTARY, CLIENT ADMITTED TO SIGNATURE ON CHECK, THAT SHE HAD REQUESTED TO BE REPLACED.

DHS -8\_\_\_\_\_ES 14 RETURN CHECK TO CANCEL THAT WAS REPLACED, THIS WAS COMPLETED 10/97.

DHS-9 \_\_\_\_\_ CAF DATED 2/10/98 CLIENT IN OFFICE FOR REVIEW PROVIDED RECEIPT FROM FATHER THAT PAYS \$300 RENT INCLUDING ELECTRIC, REPORTS 3 PERSON HOUSEHOLD, REPORTS CHILD \_\_\_\_\_ AS BEING DISABLED, \_\_\_\_\_ COMPLETED 12<sup>TH</sup> GRADE, REPORTS AP AS BEING \_\_\_\_\_ & \_\_\_\_\_, REPORTS 1986 OLDS CUTLASS VEHICLE, 1979 CHEVY CAMARO, INCOME SSI FOR \_\_\_\_\_ \$494 PER MONTH, AFFIXED SIGNATURE STATING ALL IS COMPLETE AND TRUTHFUL.

DHS-10 \_\_\_\_\_ RIGHTS & RESPONSIBILITIES AFFIXED WITH SIGNATURE ACCEPTING RESPONSIBILITY THEREOF.

DHS-11 \_\_\_\_\_ CMCC DATED 9/1/98 CLIENT LEFT ES2 AT FRONT DESK FOR 8/31/98 SCA-MOTHER & 2 CHILDREN-SSI \$494 ONLY 1 SCHOOL AGE CHILD-RAPIDS DENIED SCA BASED ON INCOME, WORKER REMOVED ADCW AND SCA PASSED.

DHS-12 \_\_\_\_\_ RIGHTS & RESPONSIBILITIES AFFIXED WITH SIGNATURE ACCEPTING RESPONSIBILITIES THEREOF.

DHS-13 \_\_\_\_\_ CMCC DATED 2/26/99 CUSTOMER IN OFFICE TO APPLY FOR WV WORKS-3 PERSON HOUSEHOLD WORKER APPROVED APPLICATION.

DHS-14 \_\_\_\_\_ CAF DATED 2/25/99 REPORTS 3 PERSON HOUSEHOLD, REPORTS \_\_\_\_\_ AS BEING DISABLED, \_\_\_\_\_ COMPLETED 12<sup>TH</sup> GRADE, REPORTS 2 VEHICLES 1986 OLDS CUTLASS & 1979 CHEVY CAMARO, REPORTS SSI INCOME FOR \_\_\_\_\_ \$500 PER MONTH, REPORTS \$300 RENT TO \_\_\_\_\_, PRC ALSO COMPLETED FOR WHAT TO REPORT.

DHS-15 \_\_\_\_\_ RIGHTS & RESPONSIBILITIES AFFIXED WITH SIGNATURE ACCEPTING RESPONSIBILITY THEREOF.

DHS-16 \_\_\_\_\_ CMCC DATED 4/9/99 CLIENT CALLED ABOUT FS AMOUNT RECEIVED, RAPIDS PRO-RATED FS FOR 4/99-WORKER SUGGESTED BRING IN RENT RECEIPT & COME INTO THE OFFICE.

DHS-17 \_\_\_\_\_ CMCC DATED 4/14/99 RECEIVED VERIFICATION OF SHELTER COST-FS INCREASED.

DHS 18 \_\_\_\_\_ CMCC DATED 5/25/99 WORKER REMOVED \_\_\_\_\_ FROM MEDICAL COVERAGE-WORKER RECEIVED VERIFICATION THAT \_\_\_\_\_ HAD BEEN A WAIVER CASE-WORKER CONTACTED SHAWNEE HILLS AND DISCOVERED THAT \_\_\_\_\_ WAS BEING PAID FOR WAIVER SERVICES THIS WAS NOT REPORTED NOR VERIFIED TO THE DEPARTMENT BY THE CLIENT, VERIFICATION WAS VERIFIED BY SHAWNEE HILLS.

DHS 19 \_\_\_\_\_ CHAPTER 2.2 STATES IT IS THE CUSTOMERS RESPONSIBILITY TO REPORT CHANGES WITHIN 10 DAYS FROM THE DATE THE HOUSEHOLD BECAME AWARE OF THE CHANGE.

DHS-20\_\_\_\_\_ CHAPTER 20.6 STATES MISREPRESENTATION MAY ALSO BE THE SUPPRESSION OF WHAT IS TRUE, AS WELL AS IN THE REPRESENTATION OF WHAT IS FALSE.

DHS-21\_\_\_\_\_ IGBR 44 & 44A MAILED 5/19/04.

DHS 22\_\_\_\_\_ APPOINTMENT LETTERS DATED 6/22/04 & 7/29/04.

**RIGHTS & RESPONSIBILITIES: EVALUATION OF CLIENT=S  
UNDERSTANDING OF AGENCY POLICY AND RECOMMENDATIONS.**

I RECOMMEND 12 MONTHS SANCTION FROM THE FOOD STAMP BENEFITS, CLIENT HAS RECEIVED BENEFITS SINCE 11/1985 AND NUMEROUS APPLICATIONS AND RIGHTS & RESPONSIBILITES HAVE BEEN READ AND SIGNED, ACCEPTING RESPONSIBILITIES TO REPORT CHANGES.

I RECOMMEND A SANCTION FROM THE FOOD STAMP BENEFITS FOR A PERIOD OF 12 MONTHS BE APPLIED, IN COMPLIANCE WITH FEDERAL REGISTER ARTICLE 273.16, ALSO REPAYMENT BE MADE IN ACCORDANCE WITH CHAPTER 20.2 BY COUPON REDUCTION, LUMP SUM PAYMENT OR MONTHLY PAYMENT. IF CLAIM BECOMES DELINQUENT IT WILL BE SUBJECT TO TAX INTERCEPT. DHS-20

4) Ms. \_\_\_\_\_ did not attend the scheduled Administrative Disqualification Hearing. She called the State Hearing Officer after the hearing and explained that, she could not attend due to an accident occurring at her brother's home. The State Hearing Officer requested a written statement for the record. As of the date of this decision, the State Hearing Officer has not received a written statement from Ms. \_\_\_\_\_.

**VIII. CONCLUSIONS OF LAW:**

The testimony and supporting documentation indicate that Ms. \_\_\_\_\_ failed to report unearned income for the period covering June 1997 through April 1999. This resulted in an over issuance of Food Stamp Benefits in the amount of \$5,197.00.

**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 December 2005.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 13th Day of October, 2005.**

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