



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
2699 Park Avenue, Suite 100  
Huntington, WV 25704  
June 1, 2005

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

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

Attached is a copy of the findings of fact and conclusions of law on your administrative disqualification hearing held May 31, 2005.

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 20.2(D)(2)(e) of the WV Income Maintenance Manual and 7 CFR Section 273.16.

The information submitted at the hearing revealed that there was no intent on your part regarding your son's earned income not being counted as Food Stamp income.

It is the ruling of the State Hearing Officer that you did not commit an Intentional Program Violation of the Food Stamp Program and you will not be individually disqualified from participation in the Food Stamp Program for a period of one (1) year.

Sincerely,

Thomas M. Smith  
State Hearing Officer  
Member, State Board of Review

cc: Board of Review  
Brian Shreve, Repayment 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 May 31, 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 hearing was originally convened on May 31, 2005.

All persons giving testimony were placed under oath and the defendant was instructed of her right to remain silent.

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

1. \_\_\_\_\_, Defendant.
2. Brian Shreve, Repayment Investigator.

Presiding at the hearing was Thomas M. Smith, State Hearing Officer and a member of the State Board of Review.

V. 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 of the Food Stamp Program.

V. APPLICABLE POLICY

Common Chapters Manual, Chapter 700, Appendix A.  
WV Income Maintenance Manual Sections 1.2, 2.2, 10.3, 10.4, 20.2.  
7 CFR 273.9, 273.16.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED

- Exhibit #A Copy of Federal Food Stamp regulations (6 pages).  
" #B Copy of benefit recovery referral 1-19-05.  
" #C Copy of Food Stamp claim determination (13 pages).  
" #D Copy of case comments 1-19-05.  
" #E Copy of employment data 3-6-05 (2 pages).  
" #E1 Copy of Employment Wage Data 3-3-05 (2 pages).  
" #F Copy of combined application/review form 3-15-04 (13 pages).  
" #F1 Copy of case comments 3-15-04.  
  
" #G Copy of manual section 1.2 (2 pages).

- " #H Copy of manual section 2.2 (2 pages).
- " #I Copy of manual section 20.2 (8 pages).
- " #J Copy of manual section 20.6 (2 pages).
- " #N Copy of letters to defendant (4 pages).

## VII. FINDINGS OF FACT

1. Defendant was an active recipient of Food Stamps when she completed a Food Stamp review on 3-15-04 and received Food Stamps based on zero income (Exhibit #C).
2. During a peer review in January, 2005, the caseworker discovered that the defendant's son, \_\_\_\_\_, had been employed for \_\_\_\_\_ according to an Employment Data Exchange (Exhibit #E1) and a referral was made to the Investigations and Fraud Management Unit (Exhibit #B).
3. Verification from the employer (\_\_\_\_\_) showed that \_\_\_\_\_ worked from 1-16-04 through 7-23-04 although the verification also stated that he started working on 3-4-05 and only listed pay for that date (Exhibit #E).
4. Employee Wage Data (Exhibit #E1) showed earnings for \_\_\_\_\_ in the first quarter of 2004 as \$432 and also showed earnings in the second and third quarters of 2004.
5. Mr. Shreve testified that the defendant had one (1) opportunity to report her son's earnings on 3-15-04 when she completed a Food Stamp review and failed to do so (Exhibit #C).
6. Mr. Shreve testified that the defendant intentionally withheld or concealed information related to her son's employment at \_\_\_\_\_ causing an overissuance in the amount of \$847 for the period of April, 2004 through July, 2004 (Exhibit #C) and requested a one-year disqualification period be imposed due to Intentional Program Violation.
7. The defendant testified that she does not remember her son being employed on 3-15-04 when she completed the Food Stamp review and thought he started at the end of March, 2004.
8. The defendant testified that her son told her he was not getting paid and she then found out he made \$800 but that she did not intentionally withhold information about her son's employment.
9. Mr. Shreve testified that he did not question the defendant's testimony.

## 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. The defendant did not commit an Intentional Program Violation of the Food Stamp Program as the State Hearing Officer is convinced by her testimony that she did not withhold or conceal information regarding her son's employment in order to receive more Food Stamps than she was entitled to receive.

## VIII. DECISION

Based on the evidence and testimony presented, I must rule that sufficient evidence was not presented during the hearing to show that Ms. \_\_\_\_\_ committed an Intentional Program Violation of the Food Stamp Program. Ms. \_\_\_\_\_ will not be disqualified from participation in the Food Stamp Program for a period of one (1) year.

## IX. RIGHT OF APPEAL

See Attachment.

**X. ATTACHMENTS**

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29.