



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

September 12, 2005

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

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 21, 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 \$1,339.00

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 November 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  
Jennifer Butcher, 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 September 12, 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 convened on June 21, 2005 on a timely appeal filed May 9, 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

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 A D H Summary
- D-1 Application dated 10/14/03 and Rights and Responsibilities dated 10/14/03
- D-2 QMB & SLIMB Application dated 12/04/03
- D-3 SCA Application dated 07/16/04
- D-4 CHIP Renewal Application dated 10/26/04
- D-5 Disbursements Printout
- D-6 Benefit Recovery Referral dated 11/04/04
- D-7 Food Stamp Claim Determination
- D-8 Notification of Intent to Disqualify dated 03/11/05
- D-9 WVIMM Chapter 2.2 B REPORTING REQUIREMENTS
- D-10 IG-BR-30; IG-BR-31; IG-BR-44 and; IG-BR-44a

**Claimants' Exhibits:**

- C-1 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:

**I. IDENTIFYING INFORMATION**

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

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

AGE: 29

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

WORKERS INVOLVED DURING PERIOD IN QUESTION: Alberta Kendall

**II. CASE DATA**

DATE OPENED: 10/14/03 DATE CLOSED: currently active

OVERPAYMENT PERIOD: March 2004 thru November 2004

ELIGIBILITY FACTOR INVOLVED: Client failed to report the onset of continuing Child Support in March 2004.

**III. SUMMARY OF FACTS**

The Investigation Fraud Unit received a referral from the IM Unit. That \_\_\_\_\_ failed to report that she started receiving Child Support on a regular bases in February 2004. Because of this unreported income an over issuance of Food Stamps occurred for the period of March 2004 to November 2004.

The West Virginia Department Health and Human Resources has requested this hearing be held 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** ES2 application dated 10/14/03 for Food Stamps with the Rights and Responsibilities (R&R) were signed accepting all responsibilities. The only income reported was Social Security check for \_\_\_\_\_, Social Security Survivors benefits for one child and Social Security disability /child /wage benefits for the other children.

**EXB-2** Qualified Medical Beneficiaries/ Specified Low-Income Medicare Beneficiaries application received 12/23/03 only income reported was Social Security.

**EXB-3** School Clothing application dated 7/16/04 only income is Social Security nothing reported for Child Support.

**EXB-4** Chip Application dated 10/26/2004 \_\_\_\_\_ reported \$ 200.00 to 500.00 per month Child Support depending on work. This was the first knowledge the Department had of the Child support that was being received by \_\_\_\_\_.

**EXB-5** Child Support printout of payments made to \_\_\_\_ for two of her children from absent parent \_\_\_\_ . As shown in the printout Mr. \_\_\_\_ started making regular monthly payments on February 17, 2004. D3 is the distribution code for payments sent to primary Caretaker.

**EXB-6** BVRF referral from Income maintenance dated 11/04/04 stating child support being collected -not reported.

**EXB-7** Food Stamp Claim and Collection Calculation sheet show the amount of stamps \_\_\_\_ received and the correct amount she should have received if she would have reported when the Child Support started monthly.

**EXB-8** IG-BR44 and 44a was mailed \_\_\_\_\_, on March 11, 2005. This letter was returned stating moved to Kanawha County. Letter was re-mailed to \_\_\_\_\_. After no response, an Administrative Disqualification Hearing was requested.

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

Ms \_\_\_\_ has been receiving benefits for many years and she has completed many applications and reviews .At each she read or had read to her the Rights and Responsibilities and signed accepting all responsibilities including reporting changes within 10 days of the onset of the change.

**EXB-9** Chapter 2.2 of the Income Maintenance states Changes must be reported within 10 days of the date the change becomes known to the benefit group. And the Rights and Responsibilities page 2 item 13. I agree to notify the local Department of Health and Human resources office within 10 days if: A) My household's unearned income changes by \$25.00 or more.

Because of these statements that \_\_\_\_ agreed to I am requesting that she should be disqualified for 12 months and repay the Department the sum of \$1,339.00 for Food Stamps that were over issued to her during March 2004 through November 2004.

4) Ms. \_\_\_\_ did not attend the scheduled Administrative Disqualification Hearing.

#### **VIII. CONCLUSIONS OF LAW:**

The testimony and supporting documentation indicate that Ms. \_\_\_\_ failed to report unearned income in a timely manner.

#### **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 November 2005.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 12th Day of September, 2005.**

---

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