



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

November 2, 2005

Ms. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 20, 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: There is clear and convincing evidence that you committed an Intentional Program Violation by making a fraudulent representation of your identity and residence. You received Food Stamp Benefits simultaneously in the States of West Virginia and New York under different names, but the same social security number. This resulted in an over issuance of Food Stamp Benefits in the amount of \$5,198.00 for the period covering April 2004 through March 2005. Also, an over issuance of Cash Assistance in the amount of \$1,582.00, occurred for the period April 2004 through October 2004.

It is the decision of the State Hearing Officer to UPHOLD the PROPOSAL of the Department that you acted to withhold facts that constitute an Intentional Program Violation. You will be sanctioned from the Food Stamp Program for a period of ten (10) years. 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  
Jennifer Butcher, Repayment Investigator

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

\_\_\_\_\_,

**Defendant,**

v.

**Action Number: 05-BOR-5968**

**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 November 2, 2005 for Ms. \_\_\_\_\_. 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 16, 2005 on a timely appeal filed June 14, 2005. Mrs. Butcher requested to reschedule the hearing due to a family emergency. The hearing convened on September 20, 2005. Ms. \_\_\_\_\_ contacted the State Hearing Officer after the hearing and, requested to reschedule due to a family emergency. The hearing was rescheduled for November 1, 2005. Ms. \_\_\_\_\_ did not attend the hearing.

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:**

Mrs. Jennifer Butcher, Repayment Investigator – Investigation Fraud and Management (IFM)  
Ms. Deborah Cooper, Repayment Investigator – Investigation Fraud and Management (IFM)

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, Ms. \_\_\_\_\_, committed an intentional program violation.

### **V. APPLICABLE POLICY:**

WV Income Maintenance Manual Section 9.1 (A) (2) (f); Common Chapters Manual, Chapter 700, Appendix A, Section B; Code of Federal Food Stamp Regulations Sections 273.16 and; WV Income Maintenance Manual Section 8.2 (A) (1) Determining State Of Residence/Movement Between States.

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

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

- D A D H Summary
- D-1 Case Comments 04/01/04
- D-2 Application dated 04/01/04 and Rights and Responsibilities dated 04/01/04
- D-3 Request for Additional Allowance or a Change in Payment dated 03/26/04
- D-4 Verification from New York State Office of Temporary and Disability Assistance dated 04/19/04 and; Application dated 12/14/04 and Rights and Responsibilities dated 12/14/04
- D-5 Verification from The City of New York's Human Resources Administration – Bureau of Fraud Investigation York dated 03/15/05
- D-6 Benefit Recovery Referral dated 05/24/05
- D-7 Verification from The City of New York's Human Resources Administration – Bureau of Fraud Investigation York dated 06/06/05
- D-8 Notification of Intent to Disqualify dated 05/24/05
- D-9 Letter dated 06/08/05 from Mrs. Butcher to Ms. \_\_\_\_\_
- D-10 IG-BR-30; IG-BR-31; IG-BR-44 and; IG-BR-44a mailed 06/15/05
- D-11 Letter dated 08/15/05 from Mrs. Butcher to Ms. \_\_\_\_\_
- D-12 Rescheduled Notice dated 08/15/05 (09/20/05)
- D-13 Food Stamp Claim Determination and; Cash Assistance Claim Determination
- D-14 WVIMM Section 8.2 RESIDENCE
- D-15 Rescheduled Notice dated 10/04/05 (11/01/05)
- D-16 CAMC ER Aftercare Instructions for Ms. \_\_\_\_\_ dated 09/20/05
- D-17 Copy of Repayment Agreement

D-18 GroupWise Message re: Scheduling  
**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) According to policy at WV Income Maintenance Manual Section 8.2 (A) (1) Determining State Of Residence/Movement Between States: When an individual, who is receiving Food Stamp benefits in another state, establishes residence in West Virginia and applies for benefits the Worker must determine when Food Stamp benefits in the other state were stopped. The individual is eligible in West Virginia for the month following the month he last received benefits in the former state of residence, if otherwise eligible.”
- 4) Mrs. Butcher submitted the following A D H Summary:

**I. IDENTIFYING INFORMATION**

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

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

AGE: 28

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

WORKERS INVOLVED DURING PERIOD IN QUESTION: Jonnie Tomer,  
Monica Hamilton, Susan Pauley, Kimberly Waugh, Anna Harper and Mary Parsons

**II. CASE DATA**

DATE OPENED: 4/1/04 DATE CLOSED: Currently active

OVERPAYMENT PERIOD: April 2004 through March 2005

ELIGIBILITY FACTOR INVOLVED: Receiving Benefits in West Virginia and New York at the same time.

**III. SUMMARY OF FACTS**

The Investigation Fraud Unit received a referral from the IM Unit. That \_\_\_\_\_ was receiving benefits from the state of New York while she was residing in the state of

West Virginia. Because of this simultaneous multiple benefits an over issuance of Food stamps and ADCW assistance checks occurred for the period of April 2004 through May 2005.

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.

case While writing another claim for Ms \_\_\_\_\_ on January 17, 2005 I was reading the comments for the entire case and saw that she had received benefits in the state of New York before coming to West Virginia In CMCC DATED 4/1/04. See EXB-1.

EXB-2 ES2 and Rights and responsibilities (R&R) application for Food Stamps and WV Works dated 4/1/04 was completed and signed accepting all information was true and correct and that she accepts all responsibilities thereof.

EXB-3 Request for Additional Allowance or a Change in Grant form from the state of New York. It is only requesting a closure of Public Assistance medical and Food Stamps, but this does show that case was closed.

EXB-4 Fax dated 4/14/04 to Anthony Morrison, Out of State Inquiry Unit requesting status of \_\_\_\_\_ case in the state of New York. Verification came back on 4/20/04 stating nothing under \_\_\_\_\_ but a \_\_\_\_\_ with the same Social Security and shows the type of benefits she has been receiving since 8/01/01. No referral was done at this time.

EXB-4 ES2 and R&R review dated 12/14/04 completed and signed after reading the R&R and accepting responsibilities thereof.

EXB-5 A fax dated 3/15/05 from The City of New York Human Resources Administration Bureau of Fraud Investigation of \_\_\_\_\_ New York showing the benefits of a \_\_\_\_\_ with Social Security number being the same as \_\_\_\_\_ and the Children, birthdates and Birth Certificates were the same for both states. Ms. \_\_\_\_\_ had been receiving Food Stamps and the assistance check in New York since June 2004 through March 2005 while receiving here as well.

EXB-6 A referral was issued for the period of April 2004 through March 2005 for receiving Benefits in two states at the same time.

EXB-7 Fax dated 6/6/2005 from Human Resources Administration Bureau of Fraud Investigation of \_\_\_\_\_ New York sent me a printout of the usage of the EBT card for \_\_\_\_\_ from May 19, 2004 to May 12, 2005. It shows all transactions were in West Virginia and none were in the state of New York.

EXB-8 On May 24, 2005 an IG-BR-44 and 44a along with a repayment agreement were sent to Ms \_\_\_\_\_ at \_\_\_\_\_, \_\_\_\_\_ WV notifying her of the over payment of Food Stamp benefits. I did not receive a response.

EXB-9 Letter sent on 6/8/05 to Ms. \_\_\_\_\_ requesting her to attend a pre conference hearing on June 14, 2005 at the local county office and ask her to bring the closure letter from New York showing the benefits have closed in that State. She was a no show.

EXB-10 Administrative Disqualification Hearing (ADH) request was mailed on 6/15/05 informing Ms. \_\_\_\_\_ the hearing was scheduled for August 16, 2005.

EXB-11 Letter was mailed to client on August 15, 2005 letting her know that the ADH will need to be rescheduled and the Hearing Officer, Mr. Woods, will be contacting her of the rescheduled date.

EXB-12 Letter dated 8/15/05 from Hearings Officer. Mr. Woods rescheduled ADH for September 20, 2005 at 11:00 a. m.

EXB-13 The calculation sheets of benefits received from April 2004 through March 2005 for Food Stamps and the ADCW assistance check that client was not eligible to receive due to receiving in another state at the same time.

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

At the time of application in April 2004 Ms \_\_\_\_\_ gave the department false information as shown in Exhibit 3. This was a paper that should have been turned in to the Department of Human Services in the state of New York.

Ms \_\_\_\_\_ continued to receive her benefits from New York while receiving Food Stamps, an Assistance Check and Medical Coverage for her family here in West Virginia.

EXB-14 Chapter 8.2A Residence of the Income Maintenance Manual: When an individual, who is receiving Food Stamps in another, establishes residence in West Virginia and applies for benefits the worker must determine when Food Stamp benefits in the other state were stopped. The individual is eligible in West Virginia for the month following the month he last received benefits in the former state of residence, if otherwise eligible.

I am requesting an Intentional Program Violation be imposed on \_\_\_\_\_ for receiving Food Stamps and Assistance Check benefits simultaneously in New York and West Virginia for the period of April 2004 through March 2005. In compliance with the Chapter 9.1 (f) of the Income Maintenance Manual - Individuals excluded by law: A 10 year sanction will be recommended for this offence .EXB-15. Along with the repaying of benefits received in West Virginia in the amount of \$ \$5,198.00 in Food Stamps and \$1,582.00 for AFDC Assistance.

**VIII. CONCLUSIONS OF LAW:**

**1)** WV Income Maintenance Manual Section 8.2 (A) (1) Determining State Of Residence/Movement Between States:

When an individual, who is receiving Food Stamp benefits in another state, establishes residence in West Virginia and applies for benefits the Worker must determine when Food Stamp benefits in the other state were stopped. The individual is eligible in West Virginia for the month following the month he last received benefits in the former state of residence, if otherwise eligible.

**2)** 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.

**3)** There is clear and convincing evidence that, Ms. \_\_\_\_\_' fraudulent representation of her identity and residence are actions that constitute an intentional program violation. This resulted in an over issuance of Food Stamp Benefits in the amount of \$5,198.00 for the period covering April 2004 through May 2005. Also, an over issuance of Cash Assistance in the amount of \$1,582.00 occurred for the period April 2004 through October 2004.

**IX. DECISION:**

It is the decision of the State Hearing Officer to UPHOLD the PROPOSAL of the Department that you acted to withhold facts that constitute an Intentional Program Violation. You will be sanctioned from the Food Stamp Program for a period of ten (10) years. 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 2nd Day of November, 2005.**

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