



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

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

August 23, 2005

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

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

Attached is a copy of the findings of fact and conclusions of law on your administrative disqualification hearing held August 23, 2005.

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.

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(c)(2) and 9.1 (A)(2)(g) of the WV Income Maintenance Manual and 7 CFR Section 273.16.

The information which was submitted at your hearing revealed that you committed an intentional program violation of the Food Stamp Program by failing to report your Unemployment Compensation benefits which caused an overissuance of Food Stamps in the amount of \$501 for the period of November, 2004 through April, 2005.

It is the decision of the State Hearings Officer that you committed an Intentional Program Violation of the Food Stamp Program and you will be individually disqualified from participation in the Food Stamp Program for a period of one (1) year beginning October, 2005.

Sincerely,

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

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



Presiding at the Hearing was Thomas M. Smith, 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 of the Food Stamp Program.

**V. APPLICABLE POLICY:**

WV Income Maintenance Manual Section 1.2, 9.1, 10.3, 10.4, 20.2.  
Federal Food Stamp Regulations Sections 273.9, 273.16.  
Common Chapters Manual Section 700, Appendix A.

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

**Department's Exhibits:**

- D-1 Copy of benefit recovery referral.
- D-2 Copy of WV Income Maintenance Manual Section 1.2.
- D-3 Copy of Food Stamp Claim determination (5 pages).
- D-4 Copy of Federal Regulations /Section 273.16 (12 pages).
- D-5 Copy of Combined application/review form 09-15-04 (38 pages).
- D-6 Copy of case comments 09-20-04.
- D-7 Copy of case comments 09-28-04 (3 pages).
- D-8 Copy of case comments 09-30-04.
- D-9 Copy of case comments 10-27-04.
- D-10 Copy of case comments 11-22-04 (24 pages).
- D-11 Copy of case comments 12-15-04.
- D-12 Copy of case comments 01/04/05 (5 pages).
- D-13 Copy of case comments 03-04-05.
- D-14 Copy of case comments 4-29-05 (4 pages).
- D-15 Copy of WV Income Maintenance Manual Section 2.2 (2 pages).
- D-16 Copy of WV Income Maintenance Manual Section 20.6.
- D-17 Copy of notification of intent to disqualify letter (3 pages).
- D-18 WV Income Maintenance Manual Section 20.1 and 20.2 (7 pages).

**VII. FINDINGS OF FACT:**

- 1) The Investigations and Fraud Management (IFM) Unit received a referral that the defendant had received Unemployment Compensation benefits (UCI) but failed to report the income in a timely manner causing an overissuance of Food Stamps.
- 2) The defendant started receiving UCI in September, 2004 but did not report the income.

- 3) A Food Stamp overissuance occurred for the period of November, 2004 through April, 2005 in the amount of \$501 due to the unreported income.
- 4) The defendant had opportunities to report her UCI benefits on the following occasions: 09/28/04 when she was in the local office to apply for Emergency Assistance (D-7), on 09/30/04 when she called the local office to report starting Excel classes (D-8), on 10-27-04 when she spoke to a caseworker regarding mail-in review (D-9), on 11-22-04 when she applied for the LIEAP Program (D-10), on 12-15-04 when she called the local office to report losing her job (D-11), on 1-4-05 when she applied for Emergency LIEAP Program (D-12), on 3-4-05 when she again applied for Emergency LIEAP Program (D-13).
- 5) The caseworker discovered the receipt of UCI benefits when an audit was completed on defendant's case on 4-29-05 and it was discovered that the claimant started receiving UCI benefits on 09-28-04.
- 6) 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.
- 7) WV Income Maintenance Manual Section 20.2, C, 2 states that once an IPV is established, a disqualification penalty is imposed on the AG member(s) who committed the IPV. See Section 9.1, A, 2, g.
- 8) WV Income Maintenance Manual Section 9.1, A, 2, g states that persons who have been found guilty of an IPV are ineligible as follows: 1<sup>st</sup> offense: 1 year, 2<sup>nd</sup> offense: 2 years, 3<sup>rd</sup> offense: permanent.

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

- 1) Common Chapters Section 700, Appendix A defines an intentional program violation as having intentionally made a false statement or concealed or withheld facts. The defendant concealed or withheld information about her UCI income on numerous occasions as documented in Findings of Fact #4. The claimant committed an intentional program violation which caused a Food Stamp overissuance of \$501 for the period of November, 2004 through April, 2005.

#### **IX. DECISION:**

It is the decision of the State Hearing Officer that the defendant committed an intentional program violation of the Food Stamp Program and she will be individually disqualified from participation in the Food Stamp Program for a period of one (1) year beginning October, 2005.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 23th Day of August, 2005.**

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**Thomas M. Smith**  
**State Hearing Officer**