



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

June 8, 2006

Dear Mr. ____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 26, 2006. 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 intentionally withheld reporting your earned income in a timely manner. This resulted in a Food Stamp over issuance of \$2,003.00 for the period covering July 2005 through October 2005.

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 twelve (12) months. The sanction will be effective July 2006.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Brian Shreve, Repayment Investigator

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

____,

Defendant,

v.

Action Number: 06-BOR-1399

**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 June 8, 2006 for Mr. _____. 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 scheduled for May 19, 2006 on a timely appeal filed March 15, 2006. The Scheduling Notice was mailed via First Class Mail on March 15, 2006. The hearing was rescheduled at the request of the State Hearing Officer. The hearing finally convened on May 26, 2006.

The issue in this particular matter involves the defendant, Mr. _____, intentionally withheld reporting his earned income, in a timely manner. This allegedly resulted in an over issuance of Food Stamp Benefits in the amount of \$2,003.00. The Department is seeking a ruling of Intentional Program Violation; Disqualification from the Food Stamp Program for a period of one (1) year; and Repayment of the over issued Food Stamp Benefits.

It should be noted here that, the Defendant was receiving Food Stamp and Medicaid Benefits at the time of the hearing. The Scheduling Notices were not returned, and Mr. _____ did not attend the scheduled hearing.

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:

Brian Shreve, 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:

- A- CFR§273.16 Disqualification for intentional Program violation
- B- Benefit Recovery Referral dated 09/22/05
- C- Food Stamp Claim Determination
- D- Case Comments dated 09/21/05
- E- Case Comments dated 09/22/05 – 10/04/05
- F- Verification of Wages for _____ dated 11/22/05
- G- Case Comments dated 07/12/05 with Eligibility Printouts
- H- Application dated 09/15/05 with Case Comments
- I- WVIMM Chapter 1.2 E Client Responsibility
- J- WVIMM Chapter 2.2 B Reporting Requirements
- K- WVIMM Chapter 20.2 Food Stamp Claim and Repayment Procedures
- L- WVIMM Chapter 20.6 Referrals to the Criminal Investigations Unit
- M- Notification of Intent to Disqualify dated 12/16/05
- N- Rescheduled Notice dated 03/30/06
- O- IG-BR-30; 31; 44 dated 03/15/06

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Investigation and Fraud Management Unit received a referral from the Income Maintenance Unit. Mr. ____ intentionally withheld reporting his earned income in a timely manner. The Department alleges that an over issuance of Food Stamps occurred for the period July 2005 through October 2005. Mr. ____'s four person household was over issued \$2,003.00 in Food Stamp benefits. Because this information was withheld at review and/or application, an Intentional Program Violation has been requested by the Department.
- 2) A Supervisory Review was conducted on September 21, 2005 when it was discovered that Mr. ____ was working. The Department verbally confirmed Mr. ____'s employment on September 22, 2005. A referral was then forwarded to the Investigations and Fraud Management Unit.
- 3) Mr. Brian Shreve submitted a written request to Mr. ____'s employer to confirm employment and wages. The employer's verification indicated Mr. ____ had been employed from June 9, 2005 through October 3, 2005.
- 4) Mr. ____ had two opportunities to report his earned income. A Food Stamp Review was conducted on July 12, 2005. Neither the employment nor earned income was reported. The second opportunity occurred on September 19, 2005 when Mr. ____ applied for West Virginia Works Benefits. Again, neither the employment nor earned income was reported.
- 5) 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.
- 6) 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.
- 7) The Code of Federal Regulations defines an Intentional Program Violation (IPV) in 7 CFR 273.16 as '... having intentionally: 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 Program Regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system(access device).

VIII. 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 documentation presented during the Administrative Disqualification Hearing indicates Mr. ____ intentionally withheld reporting his employment and earned income in a timely manner.

IX. DECISION:

It is the decision of this State Hearing Officer that Mr. ____ did commit an Intentional Program Violation. He will be sanctioned from the Food Stamp Program for a period of twelve (12) months effective July 2006.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 8th Day of June 2006.

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