



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

August 2, 2006

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 2, 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 correct household composition. You did not report household composition had changed since November 2004. This resulted in an over issuance of Food Stamp Benefits in the amount of \$1,190.00 for the period covering December 2004 through September 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 September 2006.

Sincerely,

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

cc: State Board of Review
Mrs. Danita Bragg, Repayment Investigator

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

_____,
Defendant,

v.

Action Number: 06-BOR-1474

**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 August 2, 2006 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 scheduled for June 2, 2006 on a timely appeal filed March 23, 2006. The Scheduling Notice, Request for an Administrative Disqualification Hearing, and Waiver of Administrative Disqualification Hearing forms were mailed to all parties via First Class Mail on March 24, 2006 (DHS-13).

The issue in this particular matter involves the defendant, Ms. _____, intentionally withholding facts about correct household composition. This allegedly resulted in an over issuance of Food Stamp Benefits in the amount of \$1,190.00. 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 Benefits at the time of the hearing. The Scheduling Notice was not returned, and Ms. _____ 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:

Danita Bragg, 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); Common Chapters Manual, Chapter 700, Appendix A, Section B, and 7 CFR 273.16 Intentional Program Violation (IPV)

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

DHS- 1	Food Stamp Claim Determination
DHS- 2	Food Stamp Calculation Sheet
DHS- 3	Food Stamp Issuance History – Disbursement
DHS- 4	Food Stamp Allotment Determination
DHS- 5	LIEAP Application dated 02/23/05
DHS- 6	Rights and Responsibilities dated 03/29/05
DHS- 7	Employment Verification – _____, Inc. dated 09/07/05
DHS- 8	Statement dated 09/07/05
DHS- 9	Driver History Inquiry – Driver ID – _____
DHS- 10	WVIMM Section 1.2 E Client Responsibility
DHS- 11	WVIMM Section 2.17 B Reporting Requirements
DHS- 12	WVIMM Section 20.2 Food Stamp Claims and Repayment Procedures
DHS- 13	Miscellaneous Hearing Exhibits

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

1. On October 15, 2005 the Investigations and Fraud Management Unit received a referral for repayment on the case of _____. The reason for the over payment referral was incorrect household composition. _____ moved out of the household on October 14, 2004. _____ has lived in _____ since this time. Ms. _____ continued to receive Food Stamps and TANF benefits for _____ in the month of October 2004. She was required to report any changes to household composition.
2. Ms. _____ applied for the Emergency Low Income Energy Assistance Program on February 23, 2005, and reported her household consisted of three persons (DHS-5). Ms. _____ had a review on March 29, 2005, and reported _____ was in the household. Ms. _____ signed the application and rights and responsibilities (DHS-6).
3. On May 18, 2005, Ms. _____ applied for TANF benefits, and again stated _____ was in the home.
4. Ms. _____ came to the office on August 29, 2005, and at that time only listed herself and Ashley. Ms. _____ reported _____ moved out last month, and she had not reported the change until she was sure of his residence.
5. The Front End Fraud Unit (FEFU) conducted an investigation due to a referral from the Economic Services Unit. The Economic Services Unit received a telephone call regarding the household composition in this case on August 26, 2005. A referral was then made to FEFU. FEFU interviewed _____, who provided a signed statement that he had been out of the household since October 14, 2004 (DHS-8).
6. Income verification from _____ in _____ shows _____ has worked there since December 2004, and lists _____'s home address as _____. _____ also applied for a DMV ID card October 26, 2004, showing an address of _____ (DHS-7 & 9).
7. Because of the nature of this claim, it has been pursued as an Intentional Program Violation (IPV). The Code of Federal Regulations, Sec.273.16(c) states that an IPV consists of having intentionally: (1) made a false 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, transfer, acquisition, receipt, or possession of food stamp coupons or ATP's.
8. Ms. _____ opted not to sign a waiver of the Administrative Disqualification Hearing (ADH). This ADH has been requested to establish an IPV with a one (1) year sanction from the Food Stamp Program, with repayment of the over issued Food Stamps in the amount of \$1,190 (DHS-1, 2, 3 & 4).
9. Ms. _____ has received Food Stamp benefits through the WV DHHR since July 1997, and TANF benefits since October 2003. She has reported changes and is aware and is aware of the need to report accurate information during applications and reviews.

10. 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.

11. 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.

12. 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) Ms. _____ intentionally withheld reporting her correct household composition. She did not report household composition had changed since November 2004. This resulted in an over issuance of Food Stamp Benefits in the amount of \$1,190.00 for the period covering December 2004 through September 2005.

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 12 months effective September 2006.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 2nd Day of August 2006.

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