



**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 7, 2006

Dear Mrs. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 11, 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 husband's employment and earned income. This resulted in an over issuance of Food Stamp Benefits in the amount of \$1,179.00 for the period covering August 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 September 2006.

Sincerely,

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

cc: State Board of Review
Mrs. Jennifer Butcher, Repayment Investigator

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

_____ A. _____,

Defendant,

v.

Action Number: 06-BOR-1487

**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 7, 2006 for Mrs. _____ A. _____. 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 6, 2006 on a timely appeal filed April 27, 2006. The Scheduling Notice, Request for an Administrative Disqualification Hearing, and Waiver of Administrative Disqualification Hearing forms were mailed to Mrs. _____ via Restricted Delivery on March 27, 2006 (Exhibit -13). Mrs. Jennifer Butcher, Repayment Investigator, requested to reschedule the hearing due to a planned medical leave. A second notice was issued on April 14, 2006 via Restricted Delivery. The hearing finally convened on July 11, 2006.

The issue in this particular matter involves the defendant, Mrs. _____ A. _____, intentionally withholding facts about her husband's employment and earned income. This allegedly resulted in an over issuance of Food Stamp Benefits in the amount of \$1,179.00. 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 not receiving Food Stamp Benefits at the time of the hearing. The Restricted Delivery receipts for the initial scheduling notice and second notice were signed on April 12, 2006 and April 18, 2006, respectively. Mrs. _____ 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:

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, Mrs. _____ A. _____, 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:

- Exhibit -1 Food Stamp Review with Rights and Responsibilities dated and signed 07/26/06
- Exhibit -2 Case Comments dated 09/07/05
- Exhibit -3 Rights and Responsibilities # 10 dated 07/26/05
- Exhibit -4 Case Comments dated 07/26/05
- Exhibit -5 Employment Verification from _____ dated 08/19/05, and received by FEFU on 08/31/05
- Exhibit -6 WV DHHR Verification Checklist Letter dated 09/07/05
- Exhibit -7 Benefit Recovery Referral dated 09/07/05
- Exhibit -8 Food Stamp Claim Determination
- Exhibit -9 Notification of Intent to Disqualify dated 01/31/06
- Exhibit -10 WV DHHR request for income verification from Ms. _____ dated 02/10/06

- Exhibit -11 Employment Verification from _____ Refiners dated 08/19/05, and received by Mrs. Butcher on 02/14/06
- Exhibit -12 Signed statement from Ms. _____ dated 07/26/05
- Exhibit -13 Miscellaneous Hearing Exhibits

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Investigation Fraud and Management Unit received a referral from the Income Maintenance Unit that Mrs. _____ failed to report at review on July 26, 2005, her husband had started work on July 21, 2005. Because of this unreported income, an over issuance of Food Stamps in the amount of \$1,179.00 occurred between the months of August 1 2005 through October 31, 2005.
 - 2) The West Virginia Department of Health and Human Resources requested this hearing for the purpose of determining if _____ committed an Intentional Program Violation (IPV). The Code of Federal Regulations 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 the Food Stamp EBT card or ATP's.
 - 3) The Application dated July 26, 2005 for Food Stamps and Medicaid indicates Mrs. _____ understood her Rights and Responsibilities. Her signature signifies an acceptance and understanding of the terms of the application (Exhibits -1 & 12).
 - 4) The Case Comments dated September 7, 2005 indicates Mrs. _____ called the Change Center to report her husband had gone to work on July 19, 2005. This was more than 10 days after he started, and he was already working when Mrs. _____ came in for her review on July 26, 2005 (Exhibit -2).
 - 5) On page 2, item 10 of The Rights and Responsibilities Section of the application dated July 26, 2005 it states, "I understand that if I receive Food Stamp benefits for an adult who starts working, I must report this to the local DHHR office by the 10th day after the job starts" (Exhibit -3).
- Mr. _____ began working July 21, 2005 and Mrs. _____ should have reported this income at her review. If there was no verification, the worker should have entered this into the system showing that _____ had gone to work, and was pended for income verification.
- 6) The Case Worker recorded on July 26, 2005 that Mrs. _____ A _____ was in the office for a Food Stamp and Medicaid review. The Case Worker's recording states in part, "This is an expedited Food Stamp case" (Exhibit -4).

7) The Front End Fraud Unit (FEFU) submitted a Notification of Income Verification to _____ Refiners on August 19, 2005. The faxed response shows Mr. _____ started to work on July 21, 2005. The start date was five (5) days before the Food Stamp Review and was not reported at that time (Exhibit -5).

8) When Mrs. _____ reported to the Change Center that her husband, _____, had started to work, a Verification of Income Letter was mailed to Mr. _____ on September 7, 2005. The letter requested proof of employment, proof of the start date, and proof of gross earned income, such as pay stubs and/or employer statement. The information was returned on September 16, 2005. Mr. _____ started working July 21, 2005 at \$9.00 per hour, _____ paid weekly and averaged 40 hours per week (Exhibit -6).

9) A Benefit Recovery Referral dated September 7, 2005 was sent to the Repayment Unit stating, "Client began job on 7/19/05 - Reported today 9/7/05 (Exhibit -7).

10) The Food Stamp Claim Determination Sheet shows the amount clients received, and the corrected amount if income was reported correctly. In this case, the household was not eligible for any Food Stamp Benefits for the period covering August 1, 2005 through October 31, 2005, and must repay the over issued amount of \$1,179.00 (Exhibit -8).

11) A Notification of Intent to Disqualify (IG-BR-44) and Waiver of Administrative Disqualification Hearing (IG-BR-44a) was mailed to Mrs. _____ on January 31, 2006 (Exhibit -9).

12) According to Mrs. Jennifer Butcher's testimony, Mrs. _____ called her on February 10, 2006 to discuss the Intentional Program Violation. Mrs. _____ stated she had reported her husband's employment and income at an earlier date. Mrs. Butcher requested Mrs. _____ to provide verification, and followed up with letter dated February 10, 2006 (Exhibit -10).

13) Mrs. Butcher received the requested verification from Mrs. _____ on February 14, 2006. It was the same information received by the Front End Fraud Unit on August 29, 2005. This was still more than ten (10) days after Mr. _____ started to work (Exhibit -11).

14) Mrs. Butcher further testified that after speaking to Mrs. _____ on February 15, 2006, she agreed to sign and return the IG-BR-44a. After ten (10) days without a response, Mrs. Butcher requested an Administrative Disqualification Hearing.

15) Mrs. _____ A. _____ and her family have received benefits from the Department from May 2001 to January 2002, and from July 2004 to October 2005. She has completed many applications and reviews. During these face to face meetings, she read or had read to her the Rights and Responsibilities. By signing the Rights and Responsibilities, Mrs. _____ was required to report the onset of any income, and any changes in her household within ten (10) days.

16) 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.

17) 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.

18) 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) Mrs. _____ A. _____ intentionally withheld reporting her husband's employment and earned income. This resulted in an over issuance of Food Stamp Benefits in the amount of \$1,179.00 for the period covering August 2005 through October 2005.

IX. DECISION:

It is the decision of this State Hearing Officer that Mrs. _____ A. _____ 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 7th Day of August 2006.

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