



**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 9, 2006

Dear Ms. _____:

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 failed to report your return to work in a timely manner. This resulted in an over issuance of Food Stamp Benefits in the amount of \$1,002.00 for the period covering December 2005 through February 2006.

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**

_____ L. _____,

Defendant,

v.

Action Number: 06-BOR-1512

**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 9, 2006 for Ms. _____ L. _____. 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 June 13, 2006 on a timely appeal filed March 30, 2006. The Scheduling Notice, Request for an Administrative Disqualification Hearing, and Waiver of Administrative Disqualification Hearing forms were mailed to Ms. _____ via First Class Mail on March 30, 2006. Mrs. Butcher requested to reschedule the hearing due to a scheduled medical leave. The hearing finally convened on July 11, 2006 (Exhibit -7).

The issue in this particular matter involves the defendant, Ms. _____ L. _____, intentionally failed to report her return to work in a timely manner. This allegedly resulted in an over issuance of Food Stamp Benefits in the amount of \$1,002.00. 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:

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, _____ L. _____, 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	Application dated 10/06/05 (Food Stamps; WV WORKS; Medicaid; and SCA
Exhibit -2	Case Comments dated 09/27/05
Exhibit -3	Employment Verification – _____, dated 12/12/05
Exhibit -4	WV WORKS Application Withdrawal dated 12/29/05
Exhibit -5	Employment Verification – _____, dated 01/24/06
Exhibit -6	Food Stamp Claim Determination
Exhibit -7	Miscellaneous Hearing Documents

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Investigation Fraud Unit received a referral from the Income Maintenance Unit that _____ L. _____ failed to report all of earnings at applications and reviews. Because of this unreported income, an over issuance of Food Stamps in the amount of \$1,002.00 occurred between the months of December 2005 through February 2006.
- 2) The West Virginia Department of Health and Human Resources requested this hearing for the purpose of determining if _____ L. _____ 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 October 6, 2005 for Food Stamps; West Virginia Works; Medicaid, and School Clothing Allowance indicates Ms. _____ understood her Rights and Responsibilities. Her signature on the Application and Personal Responsibility Contract signifies an acceptance and understanding of the terms of the application to report all changes within ten (10) days (Exhibit -1).
- 4) The Screener's Case Comments on September 27, 2005 indicate Ms. _____ was in the office to report being on medical leave, due to her pregnancy (Exhibit -2).
- 5) Income verification from _____ In Home Care dated December 12, 2005 shows Ms. _____ began employment on May 26, 2005 and is currently employed. Ms. _____ was _____ on maternity leave when she applied for WV Works in October 2005, and never reported returning to work. According to the income verification her last pay before childbirth was September 23, 2005. The next pay check was received on November 18, 2005. Ms. _____ returned to work in November 2005 and never reported this information to the Department within ten (10) days (Exhibit -3).
- 6) Ms. _____ was in the office on January 6, 2006. According to the Case Comments, Ms. _____ signed a withdrawal letter regarding her WV Works Benefits. The withdrawal form was signed on December 29, 2005, and the Department did not process the request because it was after the adverse action deadline. As a result, Ms. _____ received a check in January 2006. Ms. _____ submitted a pay stub while in the office (Exhibit -4)
- 7) Mrs. Butcher requested updated income verification from _____ In Home Care. The information was faxed to the Department on January 24, 2006. It stated Ms. _____ was still employed as of January 13, 2006 (Exhibit -5).
- 8) A Food Stamp Claim Determination sheet was prepared for the period covering December 2005 through February 2006. According to the calculations, Ms. _____ received \$1,073.00 in Food Stamp Benefits for the period in question, while she was only eligible for \$71.00 (Exhibit -6).
- 9) 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.

10) 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.

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. _____ L. _____ intentionally failed to report her return to work in a timely manner. This resulted in an over issuance of Food Stamp Benefits in the amount of \$1,002.00 for the period covering December 2005 through February 2006.

IX. DECISION:

It is the decision of this State Hearing Officer that Ms. _____ L. _____ 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 9th Day of August 2006.

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