



**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 31, 2006

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

Dear Mr. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 28, 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 household income. This resulted in an over issuance of Food Stamp Benefits in the amount of \$605.00 for the period covering September 1, 2005 through December 31, 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 October 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-1812**

**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 31, 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 July 28, 2006 on a timely appeal filed May 10, 2006. The Scheduling Notice, Request for an Administrative Disqualification Hearing, and Waiver of Administrative Disqualification Hearing forms were mailed to Mr. \_\_\_\_\_ via Restricted Delivery Mail on May 10, 2006 (DHS-13).

The issue in this particular matter involves the defendant, Mr. \_\_\_\_\_, intentionally withholding facts about correct household income. This allegedly resulted in an over issuance of Food Stamp Benefits in the amount of \$605.00. 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 Scheduling Notice was 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:**

Danita Bragg, Repayment Investigator  
Cheryl McKinney, State Hearing Officer (Observing)

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	Rights and Responsibility dated 07/18/05
DHS- 6	RSDI Payment History
DHS- 7	Benefit Payment History
DHS- 8	Food Stamp Approval Letter dated 07/19/05
DHS- 9	WVIMM Section 2.2 B (1) Reporting Groups
DHS- 10	WVIMM Section 1.2 E Client Responsibility
DHS- 11	WVIMM Section 20.2 Food Stamp Claims and Repayment Procedures
DHS- 12	7CFR273.16
DHS- 13	Miscellaneous Hearing Exhibits

#### **Claimants' Exhibits:**

None

## VII. FINDINGS OF FACT:

1. On January 11, 2006 the Investigations and Fraud Management Unit received a referral for repayment on the case of \_\_\_\_\_. The reason for the over payment referral was unreported income in the home. Mr. \_\_\_\_\_ applied for Food Stamps on July 18, 2005. At that time, he reported he was the only member of the household and there was zero income in the household. Mr. \_\_\_\_\_ stated Social Security Benefits had closed due to him moving. He did not mention anything about the possibility of receiving unemployment benefits in the future.

2. Mr. \_\_\_\_\_'s Social Security Benefits did not close. The benefits were simply returned because benefits were sent to the wrong address. The benefits were forwarded to Mr. \_\_\_\_\_ once the Social Security Administration was aware of his new mailing address. Mr. \_\_\_\_\_ received his first Unemployment Compensation Income in August 2005. The initial check was issued August 4, 2005. The Unemployment Compensation Income alone placed the household over 130% of the Federal Poverty Level. This case was a simplified reporting case and this income did need to be reported.

3. Mr. \_\_\_\_\_ contacted the \_\_\_\_\_ County Department of Health & Human Resources several times during December 2005 regarding Electronic Benefit Transfer and review. Mr. \_\_\_\_\_ had a review on December 15, 2005. At that time, he did report receiving Unemployment Compensation Benefits but did not report the Social Security Benefits. The Case Worker discovered this when checking the Data Exchange Printout. The Worker forgot to have Mr. \_\_\_\_\_ sign a withdrawal of application form as Mr. \_\_\_\_\_ was over income. The Social Security Income would not have been discovered if not for worker checking the Data Exchange Printout.

4. Because of the nature of the 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 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 relating to the use, presentation, transfer, acquisition, receipt, or possession of food stamp coupons or ATP's. Mr. \_\_\_\_\_ has 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 \$605 resulting from his IPV.

5. The Food Stamp Claim Determination Form shows the calculation of the Food Stamp over issuance. The over issuance is determined by comparing the actual amount of Food Stamps issued to the household with the corrected amount of Food Stamps. These amounts are shown on the right and left-hand columns of the form, respectively. The corrected amounts are determined by recalculating Food Stamp allotments with the excluded eligibility factor, which, in this case is unreported unearned income. The total overpayment of \$605.00 for this claim period is shown at the bottom of the form, inside the block marked A Loss to Program (DHS-1).

6. The Food Stamp Calculation Sheet form (DHS-2), shows an itemized breakdown of the over issuance shown in DHS-1. The Corrected side of the form corresponds with the Corrected side of the ES-FS-5 (DHS-1). The Actual side is shown in the EFAD screen prints from the RAPIDS computer system (DHS-4).

7. IQFS Screen Prints from the RAPIDS Computer System show the amount of Food Stamps issued to Mr. \_\_\_\_\_ during the claim months (DHS-3). The amounts under the heading Issued Amount correspond with the actual coupon allotments in DHS-1 and DHS-2.

8. EFAD Screen Prints from the RAPIDS Computer System show the calculation of the Food Stamp allotments at the time they were issued. They do not include the incorrect eligibility factor of unreported income in the household. They are the basis of the Actual side of the ES-FS-5a (DHS-4).

9. The copy of Rights & Responsibilities was signed by Mr. \_\_\_\_\_ on July 18, 2005. Item (6) states,

I understand if I am found by Court action or an administrative disqualification hearing to have committed an act of intentional program violation, I will not receive Food Stamp benefits as Follows: First Offense-one year; Second Offense-two years; Third Offense- Permanently disqualified. In addition, I will have to repay any benefits Received for which I am not eligible. Item 12) states, I agree to notify the local DHHR office within 10 days of the following changes. I understand that I am only required to report these changes if there is no adult in the household who is employed. A) My household's unearned income changes by \$50 or more; B) There is a change in the amount of court-ordered Child support I pay or any member of my household pays to someone outside the household. I understand that the child support payment I report will be checked through computer matching with the BCSE and that I have the right to receive any calculated deduction beginning the following month.

Item 44 states,

I understand if I give incorrect or false information or If I fail to report changes that I am required to report, I may be required to repay any benefits I receive. I may also be prosecuted for fraud and I understand that any information given is subject to verification by an authorized representative of the DHHR. Also, it is understood that any Person who obtains or attempts to obtain welfare benefits from the DHHR by means of a willfully false statement or misrepresentation or by impersonation or any other fraudulent device can be charged with fraud. Punishment upon a conviction may be a fine up to \$5,000 and/or a jail sentence of 5 years in jail. For the Food Stamp Program Only – federal Penalties may include a maximum fine of \$250,000 and a jail sentence up to 20 years.

10. A copy of the income verification provided by the Social Security Administration, shows Mr. \_\_\_\_\_ receiving benefits since January 3, 2005 (DHS-6).

11. The Benefit Payment History from Unemployment Compensation shows Mr. \_\_\_\_\_ receiving benefits since July 19, 2005 (DHS-7).

12. The Department issued a letter to Mr. \_\_\_\_\_ on July 19, 2005. It stated in part that he had to report income if total family income increases to more than \$1,009 per month (DHS-8).

13. Mr. \_\_\_\_\_ applied for Food Stamp Benefits on July 18, 2005. This was Mr. \_\_\_\_\_'s first time to receive Food Stamp benefits from the DHHR. He received a letter from the Department (DHS-8) which clearly states if his income goes over \$1009, he is to report this information. He also signed the Rights and Responsibilities on July 18, 2005.

14. 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.

15. 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.

16. 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) Mr. \_\_\_\_\_ intentionally withheld reporting his correct household income. This resulted in an over issuance of Food Stamp Benefits in the amount of \$605..00 for the period covering September 1, 2005 through December 31 2005.

### **IX. DECISION:**

It is the decision of this State Hearing Officer that Mr. \_\_\_\_\_ committed an Intentional Program Violation. He will be sanctioned from the Food Stamp Program for a period of 12 months effective October 2006.

### **X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 31st Day of August 2006.**

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