



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
Post Office Box 1736
Romney, WV 26757**

**Joe Manchin III
Governor**

**Martha Yeager Walker
Secretary**

July 25, 2006

Dear Ms. _____,

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 12, 2006. Your hearing request was based on the Department of Health and Human Resources' claim that you have 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 Stamp program is based on current policy and regulations. Some of these regulations state as follows: For the purpose of determining, through an administrative disqualification hearing, whether or not a person has committed an intentional program violation, the following criteria will be used: Intentional program violation shall consist 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 regulations, or any statute relating to the use, presentation, transfer, acquisition, receipt, or possession of Food Stamp coupons. (Section B. Appendix A, Chapter 700 of Common Chapters Manual) Individuals found to have committed an intentional program violation shall be ineligible to participate in the Food Stamp Program for a fixed period of time as explained in section 9.1,A,2,g of the WV Income Maintenance Manual and 7 CFR Section 273.16 .

The information submitted at your hearing did conclude that you committed an intentional program violation by withholding information regarding an inheritance fund.

It is the decision of the State Hearings Officer to uphold the proposed action of the Department to apply a Food Stamp Sanction to your case for an intentional program violation.

Sincerely,

Sharon K. Yoho
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Karen Crossland, Repayment Investigator

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

_____,

Defendant,

v.

Action Number: 06-BOR-1916

**West Virginia Department of
Health and Human Resources,**

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a hearing concluded on July 12, 2006 for _____. 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 convened on July 12, 2006 on a request, filed by the Agency on May 22, 2006.

It should be noted here that any adverse action of the agency has been postponed pending a hearing decision.

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 food stamp benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

III. PARTICIPANTS:

_____, Defendant

_____, Defendant's husband

Karen Crossland, Repayment Investigator

Presiding at the Hearing was Sharon K. Yoho, 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 has committed an act of intentional program violation.

V. APPLICABLE POLICY:

Common Chapters Manual, Chapter 700, Appendix A, Section B
West Virginia Maintenance Manual Section 1.2; 1.4;9.1;20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Food Stamp claim determination
- D-2 Case review form dated July 8, 2005
- D-3 MetLife summary of Inherited Life Insurance fund
- D-4 WV Income Maintenance Policy 1.2
- D-5 WV Income Maintenance Policy 9.1
- D-6 WV Income Maintenance Policy 20.1
- D-7 Medicaid application dated February 25, 2005
- D-8 Case comments February 25, 2005 thru March 20, 2006

VII. FINDINGS OF FACT:

- 1) On February 25, 2005 Ms. _____, while a patient in the hospital, made application for Medicaid coverage. An agency case worker, Mr. Scheely, completed this application.
- 2) The application, Exhibit D-7, on page 9 shows that the only asset that was reported was a checking account with a balance of \$75. This page also indicated an answer of (No) for Life Estates & Dower Rights. It indicated a (No) answer for Trust Funds. One vehicle was reported as an asset. (No) was marked for earned and for unearned income. The claimant's rights and responsibility to report accurate information was read and Ms. _____ signed the application.

- 3) Case comments for the February 25, 2005 application states, "Client states checking account of \$75, owns 1 vehicle. Client states zero income. She states she pays no rent as it is subsidized."
- 4) On July 8, 2005, Ms. _____ applied for Food Stamps. On this application on page, 4 liquid assets were reported to be a checking account for \$174.49. One vehicle was also reported as an asset. No income was reported. Again, Ms. _____ was made aware of her rights and responsibilities to report accurate information and the consequences of not doing so.
- 5) On February 21, 2006, the defendant completed a review of her Food Stamp case and reported assets of two bank accounts and a money market account consisting of an inheritance that was left to her upon her mother's death in October 2004.
- 6) Exhibit D-3 shows that a balance in excess of \$13,000. was in this account at the time of her February Medicaid application and a balance in excess of \$11,000. at the time of her July 2005 application for Food Stamps. The Exhibit shows that Ms. _____ was withdrawing regular debit amounts monthly from this account in varied amounts. The balance on this account remained above \$2,000. until January 2006.
- 7) The Defendant testified that she had reported the inheritance to Mr. Scheely at the Medicaid application on February 25, 2005. She stated that he told her that it would have nothing to do with her application because it was an asset. She testified that during her July 2005 application for Food Stamps she did not report the inheritance because she felt the agency had already been told of the inheritance.
- 8) **WV Income Maintenance Manual Policy § 1.2, states:** The client's responsibility is to provide information about his circumstances so the Worker is able to make a correct decision about his eligibility.
- 9) **WV Income Maintenance Manual Policy § 1.4, states:** Individuals who have committed an Intentional Program Violation (IPV) are ineligible for a specified time, determined by the number of previous (IPV) disqualifications.
- 10) **WV Income Maintenance Manual Policy § 20.2 states:** Intentional Program Violations include making false or misleading statements, misrepresentations, concealing or withholding information.
- 11) **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.
- 12) **According to policy in WV Income Maintenance Manual Section 9.1,A,2,g,** 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) Policy 20.2 is clear that the intentional withholding of information is considered a violation of the Food Stamp program.
- 2) Policy 1.4 and 9.1 stipulates that if an intentional program violation has been committed, a disqualification penalty must be applied. The disqualification for a first time offense is twelve months.
- 3) The defendant's claim that Mr. Scheely advised her that assets would not have anything to do with the application was not convincing since Mr. Scheeley clearly noted Mr. _____'s checking account and vehicles as assets on the February 2005 application for Medicaid.
- 4) Ms. _____'s defense that she did not report the inheritance at the July 2005 Food Stamp application because she had previously reported it and was told it didn't count can not be considered a valid reason for withholding information. This later application was for a different program and all information should have been accurately reported.
- 5) Ms. _____ appeared as an intelligent individual and it is reasonable to believe that she would be aware that this account in excess of \$13,000. would most likely be considered when determining eligibility for benefits from the WV Department of Health and Human Resources. It was her responsibility to make the Department aware of this account at each application and or review.

IX. DECISION:

It is the finding of the Hearing Officer that the defendant did intentionally withhold information necessary for accurate computation of Food Stamp benefits. It is the ruling of this Hearing Officer that Ms. _____ should be disqualified from participation in the Food Stamp program for 12 months beginning with September 2006 and that the Food Stamp claim is to be classified as an intentional violation program (IPV) claim.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 25th Day of July 2006.

**Sharon K. Yoho
State Hearing Officer**