



**State of West Virginia**  
**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**  
**Office of Inspector General**  
**Board of Review**  
**2699 Park Avenue, Suite 100**  
**Huntington, WV 25704**

**Joe Manchin III**  
Governor

**Martha Yeager Walker**  
Secretary

August 21, 2006

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

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

Attached is a copy of the findings of fact and conclusions of law on your administrative disqualification hearing held August 21, 2006.

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.

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 (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 20.2(c)(2) and 9.1 (A)(2)(g) of the WV Income Maintenance Manual and 7 CFR Section 273.16.

The information which was submitted at your hearing revealed that you withheld the fact that you had a drug felony conviction when you applied for Food Stamps on January 17, 2006 which caused an overissuance of Food Stamps in the amount of \$407 for the period of January 17, 2006 through February, 2006.

It is the decision of the State Hearings Officer that you committed an Intentional Program Violation of the Food Stamp Program and you will be individually disqualified from participation in the Food Stamp Program for a period of one (1) year beginning October, 2006.

Sincerely,

Thomas M. Smith  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Debbie Roberts, Repayment Investigator

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

\_\_\_\_\_,  
**Defendant,**

**v.**

**Action Number: 06-BOR-2209**

**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 an administrative disqualification hearing concluded on August 18, 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. It should be noted that the defendant did not attend the hearing but the hearing was convened in his absence as an appointment letter was sent by certified mail on June 26, 2006 notifying him of the date, time, and location of the hearing and the defendant signed a return receipt on June 27, 2006 acknowledging receipt of the appointment letter.

**II. PROGRAM PURPOSE:**

The Program entitled Food Stamp Program 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:**

1. Debbie Roberts, Repayment Investigator.

Presiding at the Hearing was Thomas M. Smith, 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 of the Food Stamp Program.

**V. APPLICABLE POLICY:**

WV Income Maintenance Manual Section 1.2, 9.1, 20.2.  
Federal Food Stamp Regulations Sections 273.1, 273.11, 273.16.  
Common Chapters Manual Section 700, Appendix A.

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

DHS-1 Copy of benefit recovery referral.  
DHS-2 Copy of WV Income Maintenance Manual Section 1.2.  
DHS-3 Copy of Food Stamp Claim determination (7 pages).  
DHS-4 Copy of Federal Regulations Section 273.16 (12 pages).  
DHS-5 Copy of case comments 1-17-06.  
DHS-6 Copy of Combined Application/Review form 1-17-06 (8 pages).  
DHS-7 Copy of Rights and Responsibilities 1-17-06 (4 pages).  
DHS-8 Copy of case comments 2-3-06 and drug conviction verifications (7 pages).  
DHS-9 Copy of Income Maintenance Manual Section 9.1 (4 pages).  
DHS-10 Copy of notification of intent to disqualify 4-24-06 (3 pages).  
DHS-11 Copy of return receipt signed by defendant 4-25-06.  
DHS-12 Copy of Income Maintenance Manual Section 2.2 (2 pages).  
DHS-13 Copy of Income Maintenance Manual Section 20.6.  
DHS-14 Copy of Income Maintenance Manual Section 20.1 and 20.2 (7 pages).

**VII. FINDINGS OF FACT:**

- 1) The Investigations and Fraud Management (IFM) Unit received a referral that the defendant failed to report that he was convicted of unlawful possession of meth (Exhibit #DHS-1) causing an overissuance of Food Stamps.
- 2) The defendant applied for Food Stamps on 1-17-06 (Exhibit #DHS-6) and did not report a drug felony conviction and signed the Rights and Responsibilities Section #3 which acknowledged his understanding that a drug conviction would cause ineligibility for Food Stamps (Exhibit #DHS-7).

- 3) Verification received from Big Sandy Regional Detention Center verified that the defendant had a drug felony conviction (Exhibit #DHS-8).
- 4) A Food Stamp overissuance of \$407 was caused for the period of January 17, 2006 through February, 2006 due to the defendant's failure to report the drug felony conviction (Exhibit #DHS-3).
- 5) The defendant had an opportunity to report the drug felony conviction when he applied for Food Stamps on 1-17-06 and failed to do so.
- 6) The defendant completed and signed the application/review form on 1-17-06 and signed the rights and responsibilities acknowledging his understanding of the reporting requirements and the penalties for intentional program violation (Exhibit #DHS-6 and #DHS-7).
- 7) 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.
- 8) WV Income Maintenance Manual Section 20.2, C, 2 states that once an IPV is established, a disqualification penalty is imposed on the AG member(s) who committed the IPV. See Section 9.1, A, 2, g.
- 9) WV Income Maintenance Manual Section 9.1, A, 2, g states that persons who have been found guilty of an IPV are ineligible as follows: 1<sup>st</sup> offense: 1 year, 2<sup>nd</sup> offense: 2 years, 3<sup>rd</sup> offense: permanent.

#### **VIII. CONCLUSIONS OF LAW:**

Common Chapters Section 700, Appendix A defines an intentional program violation as having intentionally made a false statement or concealed or withheld facts. The defendant concealed and withheld information about a drug felony conviction when he applied for Food Stamps on 1-17-06. The defendant's failure to report that he had been convicted of a drug felony conviction was intentional on his part and caused a Food Stamp overissuance of \$407 for the period of January 17, 2006 through February, 2006. The evidence shows that the defendant committed an intentional program violation of the Food Stamp Program.

#### **IX. DECISION:**

It is the decision of the State Hearing Officer that the defendant committed an intentional program violation of the Food Stamp Program and he will be individually disqualified from participation in the Food Stamp Program for a period of one (1) year beginning October, 2006.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 21st Day of August, 2006.**

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**Thomas M. Smith  
State Hearing Officer**