



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

September 29, 2006

Dear Ms. _____,

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 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 your earned income.

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 and to collect the overpayment which resulted.

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-2356

**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 September 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 September 12, 2006 on a request, filed by the Agency on July 10, 2006.

It should be noted here that any adverse action of the agency has been postponed pending a hearing decision. The claimant did not appear for the hearing after being properly notified of the hearing date and time.

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:

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 and 3.3

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Food Stamp claim determination
- D-2 Food Stamp Application form dated October 26, 2005
- D-3 Application screening form dated April 8, 2006
- D-4 Case comments dated October 26, 2005 – May 8, 2006
- D-5 Earned income verification
- D-6 WV Income Maintenance Policy 1.2
- D-7 WV Income Maintenance Policy 9.1
- D-8 WV Income Maintenance Policy 20.1

VII. FINDINGS OF FACT:

- 1) On October 26, 2005, the defendant was in the DHHR office to apply for Emergency Assistance and Food Stamps. Exhibit D-2 reveals that Ms. _____ was made aware of her Rights and Responsibilities as an applicant for Food Stamps. No income was reported at this application.
- 2) On April 19, 2006, the defendant completed a screening form for Emergency Assistance in the DHHR office. No income was reported on this form, Exhibit D-3.
- 3) On April 25, 2006, the defendant was again in the DHHR office to apply for Emergency LIEAP and stated that she had no income. Case comments, Exhibit D-5, for April 25, 2006 states, "There is no income at all coming into the home."

- 4) On May 8, 2006 the defendant was in the office to apply for Emergency Assistance for rent and again reported no income as shown in case comments, Exhibit D-5.
- 5) The Department obtained employment and earnings information from [REDACTED] Restaurant, which shows hired date of August 18, 2005, Exhibit D-5. This Exhibit also shows consistent earnings received from September 9, 2005 through June 9, 2006.
- 6) The defendant, on October 26, 2005, was made aware of her responsibility to report accurate information. She was also advised of the consequences of intentionally giving false information or withholding information. At this October application, she had already received three (3) pays in that month and four (4) in the previous month. She reported no income.
- 7) **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.
- 8) **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.
- 9) **WV Income Maintenance Manual Policy § 20.2 states:** Intentional Program Violations include making false or misleading statements, misrepresentations, concealing or withholding information.
- 10) **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.
- 11) **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 did have an obligation to report her earned income and it is clear that she intentionally withheld information regarding her employment and earned income.

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 to **uphold the** Departments proposed action to impose a sanction for an IPV. This action is to take affect in November 2006.

I further rule that the defendant be required to repay the overpayment that resulted from her withholding of information.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 29th Day of September 2006.

**Sharon K. Yoho
State Hearing Officer**