



**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

October 24, 2006

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

Dear \_\_\_\_\_

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 10, 2006. The hearing request was based on the Department of Health and Human Resources' claim that you both 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 both have committed an intentional program violation by withholding information regarding household income.

It is the decision of the State Hearings Officer to uphold the proposed action of the Department to impose a Food Stamp Sanction against each of you for the 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**

\_\_\_\_\_ and \_\_\_\_\_,

**Defendants,**

**v.**

**Action Number: 06-BOR-2505  
06-BOR-2603**

**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 October 10, 2006 for \_\_\_\_\_ and \_\_\_\_\_. 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 October 10, 2006 on a request, filed by the Agency on July 21, 2006.

It should be noted here that any adverse action of the agency has been postponed pending a hearing decision. The defendants failed to appear after being notified of the date and time of this 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 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

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

#### **Department's Exhibits:**

- D-1 Food Stamp claim determination
- D-2 Case review form dated October 25, 2004
- D-3 Case review form dated June 30, 2005
- D-4 Case review form dated November 29, 2005
- D-5 Employment and Income verification for defendant's daughter
- D-6 Case comments October 25, 2006 thru June 19, 2006
- D-7 WV Income Maintenance Policy 1.2
- D-8 WV Income Maintenance Policy 9.1
- D-9 WV Income Maintenance Policy 20.1

### **VII. FINDINGS OF FACT:**

- 1) Mr. \_\_\_\_\_ was in the \_\_\_\_\_ County DHHR office on October 25, 2004 to complete a Food Stamp review. At this review, he was made aware of his obligation to report accurate information and the consequences of not doing so.
- 2) Both of the Co-Defendants were in the office on June 30, 2005 to reapply for Food Stamps and both advised of their rights and responsibilities. During this application, only \_\_\_\_\_ was reported to be employed.
- 3) Both of the Co-defendants were again in the office on November 29, 2005 for a Food Stamp review and again reported \_\_\_\_\_ as being the only employed person in the household. Reported in the home were, \_\_\_\_\_ Sr.; his wife, \_\_\_\_\_; his son, \_\_\_\_\_ Jr.; his daughter, \_\_\_\_\_ and \_\_\_\_\_'s two children.

- 4) On June 16, 2006, both were again in the office for a Food Stamp review. During this review, the caseworker questioned them about wage match information that the Department had found on their 21 year-old daughter \_\_\_\_'s previous employment. Case comments indicate that the defendant's have claimed that the information found in the wage computer match was a mistake, (Exhibit D-6).
- 5) The Department obtained verification of \_\_\_\_'s employment and earnings from Employer, [REDACTED] L.P. This verification reported specifics on the employment and earnings for \_\_\_\_ and included the same Social Security number as included on Food Stamp reviews. It reported that she was employed on January 20, 2005 and received steady earnings through June 17, 2005 and was employed again from October 7, 2005 thru February 26, 2006, (Exhibit D-5).
- 6) The earnings verification shows in part, steady weekly pay dates from October 7, 2005 thru the 25<sup>th</sup> of November. This November 25<sup>th</sup> pay was four (4) days prior to the November 29th Food Stamp review completed in the DHHR office by both co-defendants. These defendants did not report this employment at the review.
- 7) Ms. Crossland testified during the hearing that, "When questioned about the income found on wage match for \_\_\_\_ they stated that was a mistake." Evidence in (Exhibit D-5) and (Exhibit D-6) clearly show that the income in question was not that of \_\_\_\_'s but rather of daughter \_\_\_\_'s. It is clear that during this testimony by Ms. Crossland, she inserted \_\_\_\_'s name instead of \_\_\_\_'s name in error.
- 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 evidence is clear that the defendant's, on November 29, 2005, both chose to withhold information regarding their daughter's employment and earnings. On this date, \_\_\_\_\_ was employed and was receiving regular pays.
- 4) Employment and earnings verification evidence was convincing that the earnings found on the Wage Match computer data report was not a mistake.

### **IX. DECISION:**

It is the finding of the Hearing Officer that the defendants both did intentionally withhold information necessary for accurate computation of Food Stamp benefits. It is the ruling of this Hearing Officer that both should be disqualified from participation in the Food Stamp program for 12 months beginning with December 1, 2006 and that the Food Stamp claim be classified and collected 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 24th Day of October 2006.**

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**Sharon K. Yoho  
State Hearing Officer**