



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 30, 2006

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Dear Ms. \_\_\_\_\_

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 25, 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 employment.

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-2709**

**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 25, 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 October 25, 2006 on a request, filed by the Agency on August 15, 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  
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 Employment and earnings verification
- D-3 Food Stamp Application form dated December 30, 2004
- D-4 Food Stamp Review form dated June 14, 2005
- D-5 Case comments dated December 30, 2004 thru November 10, 2005
- 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 December 30, 2004, the defendant was in the DHHR office to apply for Food Stamps. She reported that she was employed at the [REDACTED] and had monthly gross income of \$609.14 from that employment. She also reported that she had employment with [REDACTED] Exhibit D-3 reveals that Ms. [REDACTED] was made aware of her Rights and Responsibilities as an applicant for Food Stamps. She was advised that she had a responsibility to provide complete and truthful information and that it is a criminal violation of federal and state law to provide false or misleading information for the purpose of receiving benefits to which she was not entitled. She signed a statement indicating that she understood this.
- 2) On January 19, 2005, the defendant returned pay stubs for both [REDACTED] and for [REDACTED] as required to complete her application. She reported on this date that she had been laid off from the [REDACTED] job. Food Stamps were approved for December based on both the [REDACTED] and [REDACTED] earnings along with child support. The Food Stamps for January were based on [REDACTED] earnings and child support.
- 3) The defendant had applied for a position as a substitute case aide with the [REDACTED] County Board of Education in December. She had taken a test for this position in mid

December and notified 2 days later that she had passed the test and that her application was being passed on to the Board for approval. She was approved and began working sometime in early January. She received her first pay of \$244.05 from the Board of Education on January 10, 2005 for 3 days work. She did not report the prospects of this job at the December 30, 2004 application nor was this first pay reported on January 19, 2005 when providing pays stubs to complete the December 30 application.

- 4) The defendant's Food Stamps closed after May 2005. The defendant did not complete a review in a timely manner to continue uninterrupted benefits. On June 14, 2005, the defendant was in the office to reapply for Food Stamps. She had received her last pay from the Board of Education on June 10, 2005. She did not report this June income at this application. She reported her [REDACTED] income and her child support income.
- 5) The Department received a computer match, wage alert in November 2005. This alert advised the Department of the unreported income from the Board of Education. The caseworker made a referral to the Claims and Collection unit who verified the earnings and calculated a claim against the defendant. The defendant had received two pays per month in January 2005 thru May 2005 and one pay in June 2005. The total amount of unreported earnings was \$3070.35. The Claims and Collection unit computed a Food Stamp overpayment of \$1077.
- 6) The defendant, on December 30, 2004 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.
- 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 so that the Department could accurately determine eligibility for the Food Stamp certification period. At the December 30 contact, the defendant was aware of the potential of earned income from the Board of Education. At the January 19 contact, the defendant had already worked 3 days for the Board of Education and received a pay for those days. On both of these contacts with the office, she withheld information regarding this employment. It is clear that she intentionally withheld information regarding her employment with the Board of Education and the earnings from this employment.
- 4) On January 19, the defendant chose to report the end of her job with [REDACTED] but chose not to report the beginning of her job with the School Board.

### **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 Department's proposed action to impose a sanction for an Intentional Program Violation. This action is to take affect December 1, 2006.  
I further rule that the defendant be required to repay the \$1,077. overpayment that resulted from this withholding of information.

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

See Attachment

### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 30th Day of October 2006.**

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**Sharon K. Yoho  
State Hearing Officer**