



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
150 Maplewood Avenue
Lewisburg, WV 24901**

**Joe Manchin III
Governor**

**Martha Yeager Walker
Secretary**

February 2, 2006

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your administrative disqualification hearing held October 13, 2005.

In arriving at a decision, the State Hearing 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(D)(2)(e) of the WV Income Maintenance Manual and 7 CFR Section 273.16

The information which was submitted at your hearing revealed that you did not report direct payments from child support on three different occasions.

It is the ruling of the State Hearing Officer that you did commit and intended to commit an Intentional Program Violation. You will be disqualified from participation in the Food Stamp Program for twelve months beginning March, 2006.

Sincerely,

Margaret M. Mann
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Louise Law, Repayment Investigator

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

_____,

Defendant,

v.

Action Number: 05-BOR-6146

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

Respondent.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from an administrative disqualification hearing concluded on October 13, 2005 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 here that the claimant's benefits have been continued 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 coupons to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

III. PARTICIPANTS:

Louise Law, Repayment Investigator

It should be noted that the defendant, _____, did not appear for the hearing after given proper and timely notification.

Presiding at the Hearing was Margaret M. Mann, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether it was shown by clear and convincing evidence that the defendant, _____, committed and intended to commit an Intentional Program Violation.

V. APPLICABLE POLICY:

Common Chapters Manual, Chapter 700, Appendix A, Section B
Sections 1.2E and 20.2 of the West Virginia Income Maintenance Manual
7 CFR ' 273.16
7 CFR ' 273.16 (e) (6)

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Benefit Recovery Referral dated 02/23/05
- D-2 (a) Application dated 08/14/03 and (b) Application dated 09/04/03
- D-3 (a) Rights & Responsibilities dated 08/14/03 and (b) 09/04/03
- D-4 Children Medical Assistance Review dated 09/15/03
- D-5 Food Stamp Claim Determination
- D-6 Food Stamp Allotment Determination
- D-7 Food Stamp Calculation Sheet
- D-8 Child Support Final Order 01/05/04
- D-9 Direct Payment History
- D-10 ADH Summary

VII. FINDINGS OF FACT:

- 1) The Department requested this hearing be held for the purpose of determining that _____ committed an Intentional Program Violation (IPV).
- 2) The IFM Unit received a referral from the Criminal Investigation Unit on 02/23/05 that _____ had been receiving unreported contributions from the absent parent. (D-1)
- 3) On August 14, 2003, Ms. _____ was in the office to apply for a WV WORKS check and food stamps. She reported herself and one child, _____, in the home and there was no income. She signed the application certifying that the statements are true and correct. (D-2a) The defendant signed the Rights & Responsibilities 08/14/03. (D-3a) By signing this form the defendant agreed (#31) to report within 10 days if there are changes

in my household's amount of unearned income or gross monthly income. She also certified that (44) "all the information I have given is true and correct and I accept these responsibilities."

- 4) On September 4, 2003, Ms. _____ made an Emergency Assistance application for rent reporting the only income in the home as the WV WORKS check. She signed the application certifying the statements are true and correct. (D-2b) She also signed the Rights & Responsibilities certifying that (44) "all the information I have given is true and correct and I accept these responsibilities." (D-3b)
- 5) Case comments dated 09/16/03 note that the defendant turned in a child medical review form and reported the only income was the WORKS check. The form was signed and dated by Ms. _____ on 09/15/03. She checked "no" to income from child support and "no" to contributions, only checked "yes" to the WV WORKS, indication this was the only income she had. (D-4)
- 6) The Criminal Investigation Unit received a referral from the Child Support Unit in 02/04 that the defendant was receiving direct child support while receiving a TANF check, with Court Order attached to verify the absent father was given credit for direct payments of \$60.00 per week for the period of August 1, 2003 through December 12, 2003. (D-8 and D-9)
- 7) The defendant was receiving child support when she came into the office and applied for a check on 08/14/03 and did not report at the time of application that she had this income, nor did she report this information when she came back to apply for Emergency Assistance on 09/04/03 or when she completed the medical review on 09/15/03.
- 8) A claim has been established in the amount of \$525.00 for the period 09/03 through 03/04. (D-5)
- 9) Section 1.2E of the West Virginia Income Maintenance Manual reads in part the client's responsibility is to provide information about his circumstances so the Worker is able to make a correct decision about his eligibility.
- 10) Common Chapters Manual, Chapter 700, Appendix A, Section B, reads in part:

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) Section 20.2 of the West Virginia Income Maintenance Manual reads in part:

When an AG has been issued more Food Stamps than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation (UPV) or Intentional Program Violation (IPV) claim. The claim is the difference between the entitlement the AG received and the entitlement the AG should have received.
- 12) 7 CFR ' 273.16 (c) Definition of Intentional Program Violation

Intentional Program violations 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 Program Regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system (access device).

13) 7 CFR ' 273.16 (e) (6) Criteria for determining Intentional Program Violation.

The hearing authority shall base the determination of Intentional Program Violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, Intentional Program Violation as defined in paragraph (c) of this section.

VIII. CONCLUSIONS OF LAW:

- 1) Intentional Program violations shall consist of having intentionally made a false or misleading statement or misrepresented, concealed or withheld facts.
- 2) The hearing authority shall base the determination of Intentional Program Violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, an Intentional Program Violation.
- 3) The un-refuted evidence shows the defendant did not report direct payments from child support on three different applications.
- 4) This failure to report correct household income constitutes an intentional withholding of information. The evidence demonstrates that the defendant intended to withhold this information.

IX. DECISION:

It is the finding of the State Hearing Officer that the defendant did commit and intended to commit an Intentional Program Violation. The defendant will be disqualified for twelve months beginning March 1, 2006. Repayment will be initiated as policy dictates.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 2nd Day of February, 2006.

**Margaret M. Mann
State Hearing Officer**