



**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 21, 2006

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

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

Attached is a copy of the findings of fact and conclusions of law on your administrative disqualification hearing held November 29, 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 your employment at [REDACTED] Inc. on applications dated 01/10/05 and 01/20/05. You were hired 12/31/04. The Department became aware of your employment in April, 2005.

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 April, 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-6616**

**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 November 29, 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 food stamp benefits have been terminated.

**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 04/19/05
- D-2 (a) Application dated 01/10/05 and (b) Application dated 01/20/05
- D-3 (a) Rights & Responsibilities dated 01/10/05 and (b) Rights & Responsibilities dated 01/20/05
- D-4 Wage Verification from \_\_\_\_\_ Inc. dated 08/01/05
- D-5 Food Stamp Claim Determination Form
- D-6 Food Stamp Allotment Determination Sheets
- D-7 Food Stamp Calculation Sheets
- D-8 WV WORKS Survey
- D-9 Case Comments
- D-10 ADH Summary

**VII. FINDINGS OF FACT:**

- 1) The Department requested this hearing be held for the purpose of determining if \_\_\_\_\_ committed an Intentional Program Violation (IPV).
- 2) The IFM Unit received a referral from the WV WORKS Unit on 04/19/05 that \_\_\_\_\_ had been hired on 12/31/04 by \_\_\_\_\_ and as of 04/19/05 Mr. \_\_\_\_\_ had not reported working. (D-1)
- 3) On January 10, 2005, \_\_\_\_\_ and \_\_\_\_\_ were in the office to apply for a check and food stamps, reported themselves and two children in the home with no income. They signed the application certifying that the statements were true and correct. (D-2a) Food stamps were approved that day and the defendants were given an appointment to come back for orientation for check processing on January 18, 2005. The Rights & Responsibilities were signed. (D-3a)
- 4) On January 20, 2005 \_\_\_\_\_ and \_\_\_\_\_ came back into the office for their appointment for the check application (D-2b), brought verification that Mr. \_\_\_\_\_

wasn't eligible for unemployment and they were looking for a cheaper place to live. (D-9) The defendant completed a WORKS survey that day and stated the last day he worked was 09/04. (D-8) Rights and Responsibilities were signed that day by Mr. & Mrs. \_\_\_\_\_. (D-3b) They also signed the application certifying all statements were true and correct. (D-2b)

- 5) Employment data from [REDACTED] Inc. shows the defendant was hired 12/31/04 and terminated 04/18/05. Reason for termination: Fired no show for work. Worked 50 hours per week and was paid every two weeks. (D-4)

- 6) A claim has been established in the amount of \$2,345.00 for the period 01/05 through 05/05. (D-5) Reason: Failure to report employment at time of application.

- 7) 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.

- 8) 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.

- 9) 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.

- 10) 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).

- 11) 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 his employment at [REDACTED] Inc. on applications dated 01/10/05 and 01/20/05. He was employed 12/31/04.
- 4) This failure to report correct household income at the time of application 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 April 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 21st Day of February, 2006.**

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**Margaret M. Mann  
State Hearing Officer**