



**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

March 27, 2006

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your administrative disqualification hearing held February 8, 2006.

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 failed to report your employment with [REDACTED]

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 May, 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-6811

**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 February 8, 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.

It should be noted here that the claimant's benefits have not been continued pending a hearing decision. She does have an active Medicaid case.

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 being 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 07/27/05
- D-2 Application dated 01/03/05
- D-3 Rights & Responsibilities dated 01/03/05
- D-4 Employment Data from _____ dated 08/12/05
- D-5 Food Stamp Claim Determination
- D-6 Food Stamp Allotment Determination
- D-7 Food Stamp Calculation Sheet
- D-8 WV CHIP Renewal Application dated 04/05/05
- D-9 Case Comments 01/03/05 and 04/06/05
- 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 Income Maintenance Unit on 07/27/05 that wages with _____ for _____ in the first quarter of 2005 were not reported. (D-1)
- 3) The defendant has been active for benefits since 1997. On January 3, 2005 the defendant was in the office for a food stamp review reporting a five person household and the only income in the home was from her husband's wages. Address listed on the review form: _____, _____, WV. (D-2)

- 4) Case comments dated 01/03/05 show that the defendant stated at the time of the review that she was not working for _____ (has an independent company for _____). Stated that was some time ago she worked there. Her name was on a new hire printout. (D-9)
- 5) The defendant signed the Rights & Responsibilities 01/03/05 certifying that all statements on the form had been read by her or to her and that she understood them. "I certify that all the information I have given is true and correct and I accept these responsibilities." (D-3)
- 6) On April 5, 2005 _____ completed a WV CHIP review and reported the only income in the home was her husband's wages. (D-8)
- 7) Employment data from _____ shows that _____ was hired 01/01/05 and terminated 04/23/05. Reason for termination: Seasonal tax work. Her address at the time of employment: _____, _____, WV. The form reads in part: Originally hired 1997. Works only during tax season. (D-4)
- 8) A claim has been established in the amount of \$1,143.00 for the period 02/05 through 04/05. (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 her employment with [REDACTED] on the food stamp review completed 01/03/05 nor on the WV CHIP review 04/05/05.
- 4) The information from [REDACTED] shows the defendant was hired on 01/01/05 and terminated 04/23/05. Therefore, she was employed at the time she completed the food stamp review 01/03/05.
- 5) 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 May 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 27th Day of March, 2006.

**Margaret M. Mann
State Hearing Officer**