



**State of West Virginia**  
**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**  
**Office of Inspector General**  
**Board of Review**  
**4190 Washington Street West**  
**Charleston, WV 25313**

**Joe Manchin III**  
**Governor**

**Martha Yeager Walker**  
**Secretary**

January 18, 2006

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

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 13, 2006. Your hearing was based on the Department of Health and Human Resources' proposal that you 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 Stamps is based on current policy and regulations. Some of these regulations state as follows: 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.

The information submitted at your hearing revealed: (1) You intentionally withheld facts about your earned income from the Department and; (2) You were over issued Food Stamp benefits in the amount of \$417.00 for the period covering October 2004 through December 2004.

It is the decision of the State Hearings Officer to UPHOLD the PROPOSAL of the Department that you committed an Intentional Program Violation.

Sincerely,

Ray B. Woods, Jr., M.L.S.  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Edward Eye, Repayment Investigator

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

\_\_\_\_\_,  
**Defendant,**

**v.**

**Action Number: 05-BOR-6873**

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

**Respondent.**

**DECISION OF THE STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from an Administrative Disqualification Hearing concluded on January 18, 2006 for Mrs. \_\_\_\_\_. 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 scheduled for January 13, 2006 on a timely appeal filed November 3, 2005. The Scheduling Notice was mailed via First Class Mail on November 3, 2005.

The issues in this particular matter involve the defendant, Ms. \_\_\_\_\_, intentionally withholding facts about the receipt of earned income at the time of application. This resulted in an over issuance of Food Stamp benefits in the amount of \$417.00 (**DHS-11**). The Department is seeking a ruling of Intentional Program Violation; Disqualification from the Food Stamp Program for a period of one (1) year and; Repayment of the over issued Food Stamp benefits (**DHS-12**).

It should be noted here that, the Defendant was not receiving Food Stamp benefits at the time of the hearing. She was only listed as an active Medicaid recipient.

**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 EBT benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

### **III. PARTICIPANTS:**

Edward Eye, Repayment Investigator

Presiding at the Hearing was, Ray B. Woods, Jr., M.L.S., 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, \_\_\_\_\_, committed an intentional program violation.

### **V. APPLICABLE POLICY:**

WV Income Maintenance Manual Section 9.1 (A) (2) (f) and, Common Chapters Manual, Chapter 700, Appendix A, Section B

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

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

DHS-1	§273.16 Disqualification for Intentional Program Violation
DHS-2	WVIMM Chapter 1.2 (E) Client Responsibility
DHS-3	Application dated 09/14/04
DHS-3a	Rights and Responsibilities dated 09/14/04
DHS-4	Bureau of Employment Programs Employee Wage Data Printout
DHS-5	Wage History & Employment Data from [REDACTED]
DHS-6	Benefits Recovery Referral dated 01/04/05
DHS-7	Food Stamp Claim Determination
DHS-8	Notification of Intent to Disqualify dated 04/27/05
DHS-9	Appointment Letter dated 06/09/05
DHS-10	WVIMM Chapter 20.2 Food Stamp Claims and Repayment Procedures
DHS-11	IG-BR-44
DHS-12	ADH Summary
DHS-13	Related Hearing Documents

#### **Claimants' Exhibits:**

None

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

- 1) Ms. \_\_\_\_\_ re-applied for Food Stamp Benefits on September 14, 2004. She signed the Application and Rights and Responsibilities; with the understanding she was to report truthful information (**DHS-3 & 3a**). Ms. \_\_\_\_\_ only reported earnings received from Work Study at \$412.00 per week.
- 2) An Employee Wage Data Printout from the Bureau of Employment Programs shows earnings in the third and fourth quarters of 2004, in the amount of \$1,009.40 and \$3,112.93, respectively (**DHS-4**). The Printout also shows earnings for the first three (3) Quarters in 2005.
- 3) A Wage History and Employment Data from \_\_\_\_\_ shows Ms. \_\_\_\_\_ has been employed since August 16, 2004 and, works approximately forty (40) hours a week (**DHS-5**). Ms. \_\_\_\_\_ received her first paycheck on August 31, 2004.
- 4) A referral was made by the \_\_\_\_\_ District DHHR Income Maintenance Unit to the Investigations and Fraud Management Unit on January 4, 2005 (**DHS-6**). The referral period was listed as October 1, 2004 through December 31, 2004. The referral was based on Ms. \_\_\_\_\_ failing to report earned income from \_\_\_\_\_.
- 5) Mr. Edward Eye completed a Food Stamp Claim Determination (**DHS-7**) for the months in question. According to the calculations, Ms. \_\_\_\_\_ was only eligible for ten dollars (\$10.00) per month, based upon her earnings in October 2004 through December 2004. Mr. Eye determined that contrary to his earlier calculations, Ms. \_\_\_\_\_ was over issued Food Stamp Benefits in the amount of \$417.00, rather than \$447.00.
- 6) Mr. Eye notified Ms. \_\_\_\_\_ by letter dated April 27, 2005, of his intent to disqualify her from the Food Stamp Program (**DHS-8**). Ms. \_\_\_\_\_ signed the Certified Mail Receipt on April 29, 2005.
- 7) Mr. Eye notified Ms. \_\_\_\_\_ by letter dated June 9, 2005, of a scheduled appointment for June 17, 2005 to discuss the investigation (**DHS-9**). Ms. \_\_\_\_\_ did not attend the scheduled appointment.
- 8) Ms. \_\_\_\_\_ did not attend the scheduled Administrative Disqualification Hearing.
- 9) 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.
- 10) According to policy at WV Income Maintenance Manual Section 9.1 (A) (2) (f) 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) 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.

2) The testimony and documentation support the facts that Ms. \_\_\_\_\_ committed an Intentional Program Violation. She intentionally withheld facts about her earned income from \_\_\_\_\_ at the time of her September 14, 2004 Food Stamp Application.

**IX. DECISION:**

It is the decision of this State Hearing Officer that Ms. \_\_\_\_\_ committed an Intentional Program Violation. She will be disqualified from the Food Stamp Program for a period of one (1) year.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 18th Day of January 2006.**

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**Ray B. Woods, Jr., M.L.S.**  
**State Hearing Officer**