



**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 9, 2006

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

Dear Mrs. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 6, 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 total household income and composition from the Department and; (2) You were over issued Food Stamp benefits in the amount of \$5,694.00 for the period covering September 2003 through September 2005.

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  
Brian Shreve, Repayment Investigator

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

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

**v.**

**Action Number: 05-BOR-6901**

**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 9, 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 originally scheduled for December 9, 2005 on a timely appeal filed November 7, 2005. The Scheduling Notice was mailed via First Class Mail on November 7, 2005 (**Exhibit - S**). The Notice was returned because of an incorrect address. After receiving confirmation from the Repayment Investigator, another Notice (**Exhibit - R**), was re-issued on November 16, 2005. The hearing finally convened on January 6, 2006.

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 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 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:**

Brian Shreve, Repayment Investigator  
Tina McKinney, Child Protective Services Supervisor  
Steve Hill, Economic Services Worker

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:**

Exhibit - A CFR § 273.16 Disqualification for Intentional Program Violation  
Exhibit - B Benefit Recovery Referral dated 09/13/05  
Exhibit - C Food Stamp Claim Determination  
Exhibit - D Statement of \_\_\_\_\_ dated 09/13/05  
Exhibit - D1 Case Comments dated 09/19/05  
Exhibit - E Statement of \_\_\_\_\_ dated 09/26/05  
Exhibit - E1 Letter from Mr. Shreve to Mrs. \_\_\_\_\_ dated 10/17/05  
Exhibit - F DMV Printout for 1985 Delta 88 Royale  
Exhibit - F1 DMV Printout for 1993 Cutlass Supreme  
Exhibit - G Verification of Mr. \_\_\_\_\_'s employment and earnings  
Exhibit - G1 Verification of Mr. \_\_\_\_\_'s mailing address  
Exhibit - G2 Verification of Mr. \_\_\_\_\_'s mailing address for Drivers License  
Exhibit - G3 Verification of Mrs. \_\_\_\_\_'s mailing address  
Exhibit - H Domestic Violation Petition dated 09/28/05  
Exhibit - I Case Comments dated 07/22/04  
Exhibit - J Case Comments dated 08/10/04  
Exhibit - K Food Stamp Application dated 05/19/05  
Exhibit - K1 Case Comments dated 05/19/05 by Mr. Steve Hill  
Exhibit - L WVIMM 1.2 Client Responsibility  
Exhibit - M WVIMM 2.2 B Reporting Requirements  
Exhibit - N WVIMM 20.2 Food Stamp Claims and Repayment Procedures  
Exhibit - O WVIMM 20.6 Referrals to the Criminal Investigations Unit  
Exhibit - P Notification of Intent to Disqualify

Exhibit - Q    ADH Hearing Summary  
Exhibit - R    IG-BR-30; 31; 44 and; 44a dated 11/16/05  
Exhibit - S    IG-BR-30; 31; 44 and; 44a dated 11/07/05

**Claimants' Exhibits:**

None

**VII. FINDINGS OF FACT:**

1) This matter involves the Defendant, Mrs. \_\_\_\_\_, intentionally withholding facts about the receipt of unearned income and correct household composition that, resulted in an over issuance of Food Stamp benefits in the amount of \$5,694.00 (**Exhibit – C**). 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 (**Exhibit – Q**).

2) On September 13, 2005, the husband of the Defendant, Mr. \_\_\_\_\_, appeared at the \_\_\_\_\_ DHHR Office and inquired about his wife receiving Food Stamp benefits. Mr. Brian Shreve, Repayment Investigator and, Mr. Steve Hill, Back-up Economic Services Supervisor testified that they met and discussed the case with Mr. \_\_\_\_\_. A Referral was sent to the Investigation and Fraud Unit on the same day (**Exhibit – B**).

3) Mr. \_\_\_\_\_ signed a Statement on September 13, 2005 (**Exhibit – D**), that stated in part, “He was unaware of his wife receiving Food Stamp benefits until he received a letter in the mail.”

4) Mr. Steve Hill documented the meeting with Mr. \_\_\_\_\_ in the Case Comments dated September 19, 2005 (**Exhibit – D1**).

5) Mrs. \_\_\_\_\_ signed a Statement on September 26, 2005 (**Exhibit – E**), that stated in part, “She and her husband have been separated for over two years and, he has never sent her \$350.00 a week.”

6) Ms. Tina McKinney, Child Protective Supervisor, testified that Mr. and Mrs. \_\_\_\_\_ were not separated during the time Mrs. \_\_\_\_\_ received Food Stamp benefits. The \_\_\_\_\_’s were known to the Department due to Domestic Violence issues.

7) Mr. Shreve issued a letter to Mrs. \_\_\_\_\_ on October 17, 2005 (**Exhibit – E1**), that he was proceeding with the Administrative Disqualification Hearing.

8) The **Exhibits F, F1, G, G1, G2 and G3** list the same mailing address for Mr. and Mrs. \_\_\_\_\_.

9) Mrs. \_\_\_\_\_ filed a Domestic Violence Petition on September 28, 2005 (**Exhibit - H**), against Mr. \_\_\_\_\_.

10) Two Case Workers who have since transferred to other Counties, recorded in the Case Comments on July 22, 2004 and August 10, 2004 respectively, regarding Mr. \_\_\_\_\_’s income and inclusion in the benefit group. (**Exhibits I & J**).

11) The Food Stamp Application dated May 19, 2005 (**Exhibit – K**), lists the same mailing address for Mr. and Mrs. \_\_\_\_\_. Mr. \_\_\_\_\_ was not included in the benefit group. Mrs. \_\_\_\_\_ signed the Rights and Responsibilities section of the application, to report the correct household composition and income for the Food Stamp Program.

12) Mrs. \_\_\_\_\_ did not attend the scheduled Administrative Disqualification Hearing. The Scheduling Notice with the corrected mailing address and, dated November 16, 2005 was not returned.

13) 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.

14) 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 Mrs. \_\_\_\_\_ committed an Intentional Program Violation. She intentionally withheld facts about her correct household composition and, household income for the Food Stamp Program.

#### **IX. DECISION:**

It is the decision of this State Hearing Officer that Mrs. \_\_\_\_\_ 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 9th Day of January 9, 2006.**

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