



**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

May 4, 2006

Dear Mrs. _____;

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 21, 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: You intentionally withheld reporting your earned income. You received Food Stamp Benefits for the period covering February 2005 through August 2005, in which you were not entitled. This resulted in an over issuance of Food Stamp Benefits in the amount of \$710.00.

It is the decision of the State Hearings Officer to UPHOLD the PROPOSAL of the Department that you committed an Intentional Program Violation. You will be sanctioned from the Food Stamp Program for a period of twelve (12) months. The sanction will be effective June 2006.

Sincerely,

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

cc: State Board of Review
Jennifer Butcher, Repayment Investigator

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

_____,

Defendant,

v.

Action Number: 06-BOR-802

**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 May 4, 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 February 21, 2006 on a timely appeal filed January 17, 2006. The Scheduling Notice was mailed via First Class Mail on January 17, 2006 (**Exhibit -7**).

It should be noted here that the defendant was receiving benefits at the time of the hearing. Mrs. _____ did not attend the Administrative Disqualification Hearing

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:

Jennifer Butcher, 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); Common Chapters Manual, Chapter 700, Appendix A, Section B and; WV Income Maintenance Manual Section 2.2 Income.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

Exhibit -1 Application dated 10/12/04
Exhibit -2 Benefit Recovery Referral
Exhibit -3 Employment and Wage Verification Request dated 10/05/05
Exhibit -4 Food Stamp Claim Determination
Exhibit -5 WVIMM Section 2.2 - Income
Exhibit -6 ADH Hearing Summary
Exhibit -7 IG-BR-30; 31; 44 and; 44a dated 01/17/06

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

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) 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.

3) According to policy at WV Income Maintenance Manual Section 2.2 Income states in part, "If there are no WV WORKS Recipient in the Food Stamp Budget Group, Earned or Unearned Income Must be Counted Within 10 Days of Onset."

4) The Investigation Fraud and Management Unit received a referral from the Income Maintenance Unit that Mrs. _____ began working on January 17, 2005 (**Exhibit -2**). The income was never reported to the Department to determine the household's eligibility for the Food Stamp Program.

5) Mr. _____ and Mrs. _____ were in the local DHHR Office on October 12, 2004 and completed an application for School Clothing Allowance, Medical Assistance and Food Stamp Benefits (**Exhibit -1**).

6) The October 5, 2005 Employment Verification received from Mrs. _____'s employer, _____, indicates she began working January 17, 2005 (**Exhibit -3**). Mrs. _____ was still employed according to the employer's written response on October 21, 2005.

7) Mrs. Jennifer Butcher, Repayment Investigator, calculated the overpayment of Food Stamp Benefits for the period covering February 2005 through August 2005 (**Exhibit -4**). The overpayment for the aforementioned period totaled \$710.00

8) Mrs. _____ intentionally withheld reporting her earned income, which would have affected her eligibility for the Food Stamp Program.

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) There is clear and convincing evidence that Mrs. _____ intentionally withheld reporting her earned income. This resulted in an over issuance of Food Stamp Benefits in the amount of \$710.00, for the period covering February 2005 through August 2005.

IX. DECISION:

It is the decision of this State Hearing Officer that Mrs. _____ committed an Intentional Program Violation. She will be sanctioned from the Food Stamp Program for a period of twelve (12) months. The sanction will be effective June 2006.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 4th Day of May 2006.

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