



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 8, 2006

Dear Ms. _____;

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 that you were simultaneously receiving Food Stamp Benefits in the States of West Virginia and Montana. You received Food Stamp Benefits for the period covering February 24, 2004 through April 2004, in which you were not entitled. This resulted in an over issuance of Food Stamp Benefits in the amount of \$432.00.

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 one hundred twenty (120) 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-803

**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 8, 2006 for Ms. _____. 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 first Scheduling Notice was mailed via Certified Mail on January 17, 2006. The return receipt was signed by another party other than Ms. _____. The Scheduling Notice was reissued via Restricted Delivery on January 27, 2006. The signed receipt was returned on February 6, 2006 with the signature of _____. **(Exhibit -9).**

It should be noted here that the defendant was not receiving benefits at the time of the hearing. Ms. _____ 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 8.2 – (A) (1) Determining State Of Residence/Movement Between States.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

Exhibit -1	Application dated 02/24/04
Exhibit -2	Case Comments dated 04/15/04
Exhibit -3	Benefit Recovery Referral dated 04/15/04
Exhibit -4	Benefit Verification from the State of Montana dated 09/08/04
Exhibit -5	Case Household Information Printout
Exhibit -6	Food Stamp Claim Determination
Exhibit -7	WVIMM Section 8.2 Residence – (A) (1) Determining State Of Residence/Movement Between States
Exhibit -8	ADH Hearing Summary
Exhibit -9	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 8.2 Residence – (A)
(1) Determining State Of Residence/Movement Between States:

When an individual, who is receiving Food Stamp benefits in another state, establishes residence in West Virginia and applies for benefits the Worker must determine when Food Stamp benefits in the other state were stopped. The individual is eligible in West Virginia for the month following the month he last received benefits in the former state of residence, if otherwise eligible.

- 4) The Investigation Fraud and Management Unit received a referral from the Income Maintenance Unit dated April 15, 2004. Ms. _____ was receiving Food Stamp Benefits in West Virginia and _____ (Exhibit -3). The information was never reported to the Department to determine the household's eligibility for the Food Stamp Program.

- 5) Ms. _____ was in the local DHHR Office on February 24, 2004 and completed an application for Medical Assistance and Food Stamp Benefits (Exhibit -1). She signed the Rights and Responsibilities section of the application acknowledging Question #8 (C) which states, "**I understand** if I or any member of my household makes a false statement or misrepresentation of identity and/or residence to receive duplicate benefits at the same time, then the responsible party will be disqualified for 10 years."

- 6) A West Virginia Case Worker recorded receiving a telephone call from the _____ Department of Health and Human Resources on April 15, 2004 (Exhibit -2). According to the information, Ms. _____ lived in _____ and only came to West Virginia to have her baby. The Case Comments further states that the West Virginia case was closed and referred to Repayments.

- 7) Mrs. Jennifer Butcher received verification of benefits from the _____ County Office of Public Assistance in _____ dated September 8, 2004 (Exhibit 4). According to the verification, Ms. _____ received Food Stamp benefits in the State of _____ for the months of February, March and April 2004.

- 8) Ms. _____ visited the local DHHR Office on February 24, 2004 and did not report actively receiving benefits in another State. According to the Case Household Information Printout (Exhibit -5), it indicates she moved from another State.

- 9) Mrs. Jennifer Butcher, Repayment Investigator, calculated the overpayment of FoodStamp Benefits for the period covering February 24, 2004 through April 2004 (Exhibit 6). The overpayment for the aforementioned period totaled \$432.00

- 10) The facts presented during the Administrative Disqualification Hearing supports the Department's proposal, that Ms. _____ intentionally withheld reporting she was receiving simultaneous Food Stamp Benefits, in the States of West Virginia and _____

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) According to policy at WV Income Maintenance Manual Section 8.2 Residence – (A)
(1) Determining State Of Residence/Movement Between States:

When an individual, who is receiving Food Stamp benefits in another state, establishes residence in West Virginia and applies for benefits the Worker must determine when Food Stamp benefits in the other state were stopped. The individual is eligible in West Virginia for the month following the month he last received benefits in the former state of residence, if otherwise eligible.

3) There is clear and convincing evidence that Ms. _____ intentionally withheld reporting, that she was simultaneously receiving Food Stamp Benefits in the States of West Virginia and [REDACTED]. This resulted in an over issuance of Food Stamp Benefits in the amount of \$432.00, for the period covering February 24, 2004 through April 2004. Ms. _____ will be sanctioned from the Food Stamp Program for a period of one hundred twenty (120) months. The sanction will be effective June 2006.

IX. DECISION:

It is the decision of this State Hearing Officer to **UPHOLD** the Department's **PROPOSAL** that Ms. _____ committed an Intentional Program Violation.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 8th Day of May 2006.

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