



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 3, 2006

Ms. _____

CORRECTED DECISION

Dear Ms. _____;

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 28, 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 information regarding household composition. Your son lives with his grandmother instead of in your household. You improperly received Food Stamp Benefits for the periods covering October 2002 through May 2003. This resulted in an over issuance of Food Stamp Benefits in the amount of \$1,492.00.

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-967

**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 2, 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 March 28, 2006 on a timely appeal filed January 27, 2006. The Scheduling Notice was mailed via Restricted Delivery on January 30, 2006 (**Exhibit -6**). Ms. _____ signed the receipt on February 6, 2006, but did not appear for the administrative hearing.

It should be noted here that the defendant was not receiving benefits at the time of the 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) and, Common Chapters Manual, Chapter 700, Appendix A, Section B.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

Exhibit -1 Application dated 10/25/02

Exhibit -2 None

Exhibit -3 [REDACTED] County Family Court Order Civil Action No. 03-D-2487

Exhibit -4 Food Stamp Claim Determination

Exhibit -5 ADH Hearing Summary

Exhibit -6 IG-BR-30; 31; 44 and; 44a dated 01/30/06 with attached receipt

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) The Investigation Fraud and Management Unit received a referral from the Income Maintenance Unit regarding Ms. _____. Ms. _____ reported on a Food Stamp and WV WORKS application dated October 25, 2002, that her son, _____, resided in her home

(Exhibit -1). She also signed the Rights and Responsibilities section of the application requiring her to report truthful information to determine her program eligibility.

4) The Department was notified by another client that Ms. ____ did not have physical custody of her son, _____. The information was verified through a _____ County Family Court Order filed with the _____ County Circuit Clerk's Office on February 26, 2004 **(Exhibit -3)**. The Order awarded custody to Ms. ____'s mother, Ms. _____. The Family Court noted that the child had lived with Ms. ____ since birth.

5) Mrs. Jennifer Butcher, Repayment Investigator, calculated the overpayment of Food Stamp Benefits for the period covering October 2002 through May 2003, and December 18, 2003 through July 2004 **(Exhibit -4)**. The overpayment for the aforementioned period totaled \$3,392.00. Mrs. Butcher did not include the application dated December 18, 2003 (Exhibit-2) as stated in her ADH Summary **(Exhibit -5)**. As such, the amount of the overpayment can only be calculated for the period covering October 2002 through May 2003. This totals \$1,492.00.

6) Ms. ____ intentionally withheld facts about her household composition that 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 Ms. ____ intentionally withhold facts about her household composition. This resulted in an over issuance of Food Stamp Benefits in the amount of \$1,492.00 for the period covering October 2002 through May 2003.

IX. DECISION:

It is the decision of this State Hearing Officer that Ms. ____ 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 3rd Day of May 2006.

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