



**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 25, 2006

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 income. The Department recalculated the amount of your over issuance and decreased it from \$52.000 to \$10.00. Based upon the facts of the case, you improperly received an over issuance of Food Stamp Benefits in the amount of \$10.00, during the month of July 2004.

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 July 2006.

Sincerely,

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

cc: State Board of Review
Mrs. Jennifer Butcher, Repayment Investigator

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

____,

Defendant,

v.

Action Number: 06-BOR-987

**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 25, 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 February 1, 2006. The Scheduling Notice was mailed via First Class Mail on February 1, 2006.

It should be noted here that the defendant was receiving benefits at the time of the hearing. A pre-hearing conference was not held between the parties, and Ms. _____ did not have legal representation. Ms. _____ was advised that she did not have to provide any testimony. If she chose not to provide testimony, the decision would be based solely on the information provided at 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:

_____, Defendant
Jennifer Butcher, Repayment Investigator
Shawn McMaster, Family Support Supervisor
Joseph Pawlowski, Family Support Specialist
Patricia Hager, Family Support Specialist

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 07/13/04 with Case Comments
Exhibit -2	Employment and Verification Service – [REDACTED] dated 12/18/05
Exhibit -3	Employment and Wage Verification dated 11/07/05 – [REDACTED] Home Health
Exhibit -4	Updated Food Stamp Claim Determination - \$10.00
Exhibit -5	Case Comments dated 09/28/04
Exhibit -6	Application dated 10/07/04
Exhibit -7	Case Comments dated 11/04/04
Exhibit -7a	Case Comments dated 11/05/04
Exhibit -8	Application dated 08/12/05 with Case Comments & Employment Printout
Exhibit -9	Application dated 10/06/05 with Case Comments
Exhibit -10	Employment and Wage Verification from [REDACTED] dated 12/12/05
Exhibit -11	West Virginia Works withdrawal form dated 12/29/05
Exhibit -12	Employment and Wage Verification from [REDACTED] dated 01/24/06
Exhibit -13	Food Stamp Claim Determination
Exhibit -14	Updated ADH Summary
Exhibit -15	Letter dated 04/17/06 from Mrs. Butcher to Ms. _____ adjusting Food Stamp over issuance
Exhibit -16	IG-BR-30; 31; 44 and; 44a dated 02/01/06 issued via First Class Mail

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. _____ failed to report all of her earnings at applications and reviews. Because of this unreported income, an over issuance of Food Stamp Benefits occurred for the period of July 2004.
- 4) A Food Stamp and Medicaid application was taken July 13, 2004 (**Exhibit -1**). Ms. _____ also signed the Rights and Responsibilities section of the application requiring her to report truthful information to determine her program eligibility.
- 5) Mrs. Butcher verified Ms. _____ employment with Wal-Mart dated December 18, 2005 (**Exhibit -2**) and _____ dated November 7, 2005 (**Exhibit -3**). Ms. _____ did not report any earnings from _____.
- 6) Ms. Shawn McMaster, Family Support Supervisor; Mr. Joseph Pawlowski, Family Support Specialist; and Ms. Patricia Hager, Family Support Specialist verified their various contacts with Ms. _____.
- 7) Ms. _____ disputed the amount of the over issuance and the State Hearing Officer allowed her to provide verification of her correct income. On April 17, 2006, (**Exhibit -15**) Mrs. Butcher sent a letter to Ms. _____ with an updated Food Stamp Claim Determination, and an updated ADH Summary (**Exhibit -14**). The letter stated in part:

I received the verification of the check dated 10/22/04 for \$165.95. According to _____ this was a gift/bonus for the birth of the baby.

After recalculation, due to the time frame of first check received after returning to work for _____ the claim amount has been reduced from \$52.00 to \$10.00.
- 8) Mrs. Butcher sought to address exhibits that were not part of the original Scheduling Notice mailed on February 1, 2006 (**Exhibit – 16**). This would have increased the proposed

over issuance of Food Stamp Benefits. The State Hearing Officer advised Mrs. Butcher that since he did not receive the exhibits prior to mailing the initial notice, he would only address the over issuance of \$52.00.

9) The testimony and supporting documentation supports the Department's proposal, that Ms. ____ intentionally withheld facts regarding her household income. This would have affected her eligibility for the Food Stamp Program for the month of July 2004.

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 income. This resulted in an over issuance of Food Stamp Benefits in the amount of \$10.00 for the month of July 2004.

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 July 2006.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 25th Day of May 2006.

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