



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
Post Office Box 1736  
Romney, WV 26757

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

June 11, 2007

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

Dear Mr. \_\_\_\_\_,

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 31, 2007. The hearing request was based on the Department of Health and Human Resources' claim that you have 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 Stamp program is based on current policy and regulations. Some of these regulations state as follows: For the purpose of determining, through an administrative disqualification hearing, whether or not a person has committed an intentional program violation, the following criteria will be used: Intentional program violation shall consist of having intentionally (1) made a false or misleading statement or misrepresented, concealed or withheld facts or (2) committed any act that constitutes a violation of the Food Stamp Act, the Food Stamp regulations, or any statute relating to the use, presentation, transfer, acquisition, receipt, or possession of Food Stamp coupons. (Section B. Appendix A, Chapter 700 of Common Chapters Manual) Individuals found to have committed an intentional program violation shall be ineligible to participate in the Food Stamp Program for a fixed period of time as explained in section 9.1,A,2,g of the WV Income Maintenance Manual and 7 CFR Section 273.16 .

The information submitted at your hearing did conclude that you committed an intentional program violation by withholding information regarding your Workers Compensation income.

It is the decision of the State Hearings Officer to **uphold** the proposed action of the Department to apply a Food Stamp Sanction to your case for an intentional program violation and to collect the overpayment, which resulted.

Sincerely,

Sharon K. Yoho  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Teresa Smith, Repayment Investigator

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

\_\_\_\_\_,

**Defendant,**

**v.**

**Action Number: 07-BOR-1088**

**West Virginia Department of  
Health and Human Resources,**

**DECISION OF STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from a hearing concluded on May 31, 2007 for \_\_\_\_\_. 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 convened on May 31, 2007 on a request, filed by the Agency on April 6, 2007. After proper notice of the hearing dated and time, the defendant failed to appear.

It should be noted here that any adverse action of the agency has been postponed pending a hearing decision.

**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 food stamp benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

### **III. PARTICIPANTS:**

Teresa Smith, Repayment Investigator

Presiding at the Hearing was Sharon K. Yoho, 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 has committed an act of intentional program violation.

### **V. APPLICABLE POLICY:**

Common Chapters Manual, Chapter 700, Appendix A, Section B  
West Virginia Maintenance Manual Section 1.2; 1.4; 9.1; 10.3 and 20.2

### **VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

#### **Department's Exhibits:**

- D-1 Food Stamp re-determination dated September 26, 2006
- D-2 Case Comments September 26, 2006 thru April 3, 2007
- D-3 Income verification, Workers Compensation and Social Security
- D-4 Food Stamp Claim Determination
- D-5 Notification of Intent to Disqualify dated January 12, 2007
- D-6 WV Income Maintenance Policy 1.2
- D-7 WV Income Maintenance Policy 1.4
- D-8 WV Income Maintenance Policy 9.1
- D-9 WV Income Maintenance Policy 10.3
- D-10 WV Income Maintenance Policy 20.1
- D-11 Common Chapters Manual, 700, Appendix A, Section B
- D-12 LIEAP application dated October 20, 2006

### **VII. FINDINGS OF FACT:**

- 1) The defendant was in the \_\_\_\_\_ County DHHR office on September 26, 2006 to complete a review of his Food Stamps for a three-person household. He reported his income to be Social Security Disability income. He advised the caseworker that his son was receiving Workers Compensation but that he was no longer a household member. During this re-determination process, the defendant was made aware of his rights and responsibilities to report accurate information and of the consequences of not doing so.
- 2) The defendant completed an application for the Low Income Energy Assistance Program, (LIEAP) on October 20, 2006. Again, he reported his income to be Social

Security Disability income. This application form advised the defendant of potential outcomes from knowingly providing false or fraudulent information.

- 3) On December 21, 2006, a DHHR caseworker received a computer cross match for Workers Compensation for the defendant. This cross match showed that the defendant had been receiving Workers Compensation checks since September 6, 2006 of \$1390.48 monthly. The computer information shows that the issue date of the first check was 9/6/06.
- 4) The worker entered the Workers Compensation income to the case, which caused the case to close. The worker referred the case to the Claims and Collection unit on December 21, 2006.
- 5) The Claims and Collections unit determined that the reported Social Security income of \$1,127.50 plus the unreported Workers Compensation income of \$1390.48 exceeded the allowable income for a three person household. A repayment claim was established for November and December 2006 and January 2007 in the amount of \$676.
- 6) **WV Income Maintenance Manual Policy § 1.2, states:** The client's responsibility is to provide information about his circumstances so the Worker is able to make a correct decision about his eligibility.
- 7) **WV Income Maintenance Manual Policy § 1.4, states:** Individuals who have committed an Intentional Program Violation (IPV) are ineligible for a specified time, determined by the number of previous (IPV) disqualifications.
- 8) **WV Income Maintenance Manual Policy § 20.2 states:** Intentional Program Violations include making false or misleading statements, misrepresentations, concealing or withholding information.
- 9) **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.
- 10) **According to policy in WV Income Maintenance Manual Section 9.1,A,2,g,** 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.
- 11) **WV Income Maintenance Manual Policy § 10.3:** Workers' Compensation counted as Unearned income under the Food Stamp program.

#### **VIII. CONCLUSIONS OF LAW:**

- 1) Policy 20.2 is clear that the intentional withholding of information at application for benefits is considered a violation of the Food Stamp program.
- 2) Policy 1.4 and 9.1 stipulates that if an intentional program violation has been committed, a disqualification penalty must be applied. The disqualification for a first time offense is twelve months.
- 3) The defendant did have an obligation to report his Workers Compensation income and he even mentioned that his Son was receiving Workers Compensation income even though he was no longer a household member. It is clear that he intentionally withheld information regarding his own Workers Compensation income which resulted in an over issuance of benefits.
- 4) The defendant withheld information necessary for accurate calculation of Food Stamp benefits. Evidence and testimony is clear and convincing that the defendant intentionally withheld this information.

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

It is the finding of this Hearing Officer that the defendant did commit an intentional program violation; by withhold information necessary for accurate computation of Food Stamp benefits. It is the ruling of this Hearing Officer to **uphold** the Department's proposed action to impose a twelve month sanction for an IPV. This sanction is to go into affect July 1, 2007. The Food Stamp claim of \$676. is to be established as an Intentional Program Violation claim and collected as such.

#### **X. RIGHT OF APPEAL:**

See Attachment

#### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 11th Day of June 2007.**

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**Sharon K. Yoho  
State Hearing Officer**