



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

January 10, 2007

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

Dear Ms. \_\_\_\_\_,

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 21, 2006. Your 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 household circumstances and 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  
Karen Crossland, Repayment Investigator

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

\_\_\_\_\_,  
**Defendant,**

**v.**

**Action Number: 06-BOR-3253**

**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 December 21, 2006 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 December 21, 2006 on a request, filed by the Agency on November 6, 2006.

It should be noted here that any adverse action of the agency has been postponed pending a hearing decision. The claimant did not appear for the hearing after being properly notified of the hearing date and time.

**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:**

\_\_\_\_\_, Defendant  
Karen Crossland, 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; and 20.2

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

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

- D-1 Food Stamp claim determination
- D-2 Certificate of Marriage
- D-3 Notice of Veterans benefit increase dated December 27, 2001
- D-4 Verification of Social Security benefits dated August 21, 2002
- D-5 Application for Medicaid and Food Stamps dated September 19, 2000
- D-6 Food Stamp review dated November 6, 2000
- D-7 Application for School Clothing Allowance dated July 30, 2001
- D-8 Screening form for School Clothing Allowance dated July 30, 2001
- D-9 WV Income Maintenance Policy 1.2
- D-10 WV Income Maintenance Policy 9.1
- D-11 WV Income Maintenance Policy 20.1

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

- 1) The defendant was in the DHHR office on September 19, 2000 and completed an application for Food Stamps and Medicaid (Exhibit D-5). She reported that she and her three children were the only members of the household. She reported the household income to be SSI and SSA that was received by her children. The Department advised her of her obligation to report accurate information and of the consequences of failing to do so. The Defendant signed a statement certifying that she understood her obligations and that all the information she had given was true and correct and that she accepts the responsibilities.

- 2) On November 6, 2000, the Defendant returned to the Department and completed a review of her case (Exhibit D-6). She reported that there was no change in her circumstances. The Department again advised her of her obligations and consequences for failing to give correct information.
- 3) On July 30, 2001, the Defendant returned to the Department and made an application (Exhibit D-7) for School Clothing Allowance for her children. She again reported only her and the three children in the home and that the only income was SSI and Social Security. She filled out a self-completed application form (Exhibit D-8) under the section titled Household Information she was asked to include **everyone** in your household. List yourself first, then household adults, then children. Her husband and father to her children, who had been a household member all the way back to her first application in September 2000, was not listed.
- 4) Her husband was receiving in excess of \$2,000. per month in Veterans Benefits and in excess of \$1,000. per month in Social Security benefits.
- 5) Had all of the household income been reported, the Food Stamps would never have been approved.
- 6) The Defendant admits that she did not report her husband in the home and that she did not report his income. She stated that since her children were not included in his Veterans Benefits, she did not know how she was going to take care of her children without some help.
- 7) The defendant was made aware of her responsibility to report accurate information. She was also advised on numerous occasions of the consequences for intentionally giving false information or withholding information.
- 8) **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.
- 9) **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.
- 10) **WV Income Maintenance Manual Policy § 20.2 states:** Intentional Program Violations include making false or misleading statements, misrepresentations, concealing or withholding information.
- 11) **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.

- 12) **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..

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

- 1) Policy 20.2 is clear that the intentional withholding of information 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 accurate information regarding who was in her home and all income available to the household. It is clear that she made a conscious decision to apply for benefits and withhold information to insure the benefits would be approved.
- 4) The defendant withheld information regarding household circumstances and income on numerous occasions. 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 sanction for an Intentional Program Violation effective February 1, 2007 and to proceed with collection activities for the overpayment of \$4,635.

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

See Attachment

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

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 10th Day of January 2007.**

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**Sharon K. Yoho**  
**State Hearing Officer**