



**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

January 11, 2007

Dear Mrs. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 9, 2007. 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 your husband's earned income on several occasions and in a timely manner. This resulted in an over issuance of Food Stamp Benefits in the amount of \$6,359.00 for the period covering July 2005 through July 2006.

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 February 2007.

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**

_____ **R.** _____,

Defendant,

v.

Action Number: 06-BOR-3307

**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 January 11, 2007 for _____ R. _____. 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 January 9, 2007 on a timely appeal filed November 17, 2006. The Scheduling Notice, Request for an Administrative Disqualification Hearing, and Waiver of Administrative Disqualification Hearing forms were mailed to the Defendant via First Class Mail on November 17, 2006.

The issue in this particular matter involves the Defendant intentionally withholding facts about her husband's earned income, and intentionally failing to report in a timely manner. This allegedly resulted in an over issuance of Food Stamp Benefits in the amount of \$6,359.00. The Department is seeking a ruling of Intentional Program Violation; Disqualification from the Food Stamp Program for a period of one (1) year; and Repayment of the over issued Food Stamp Benefits.

It should be noted here that, the Defendant was receiving Food Stamp Benefits at the time of the hearing. The Scheduling Notice was not returned, and Mrs. _____ did not attend the scheduled 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, _____ R. _____ 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 School Clothing Allowance, Medicaid & Food Stamp Application with Rights and Responsibilities attached dated 07/19/05
- Exhibit -2 Food Stamp & Medicaid Review Application with Rights and Responsibilities attached dated 12/05/05
- Exhibit -3 Food Stamp & Medicaid Review Application with Rights and Responsibilities attached dated 06/01/06
- Exhibit -4 School Clothing Application dated 07/31/06
- Exhibit -5 Spouse's Employment Verification
- Exhibit -6 Food Stamp Claim Determination Notification of Intent to Disqualify dated 10/20/06
- Exhibit -7 Notification of Intent to Disqualify dated 10/20/06

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The West Virginia Department of Health and Human Resources requested this hearing for the purpose of determining if the Defendant committed an Intentional Program Violation (IPV). The Code of Federal Regulations Article 273.16c defines an IPV as (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 Program Regulations, or any state statute relating to the use, presentation, acquisition, receipt, or possession of the Food Stamp EBT card or ATP's.
- 2) The Income Maintenance Unit made a Benefit Recovery Referral to the Repayment Unit. The Defendant's husband was employed and she failed to report the earnings on several applications. Since the earnings were not reported in a timely manner, the Defendant received over issued Food Stamps in the amount of \$6,359.00
- 3) The Defendant signed the application dated July 19, 2005 for School Clothing Allowance, Medicaid and Food Stamp programs. She also signed the Rights and Responsibilities. Her signature signifies an acceptance and understanding of the terms of the application. The husband's earned income was not reported (Exhibit -1).
- 4) The Application dated December 5, 2005 for a Food Stamp and Medicaid Review was again signed by the Defendant, as well as the Rights and Responsibilities. There was no reported earned income (Exhibit -2).
- 5) The Application dated June 1, 2006 for a Food Stamp and Medicaid Review was again signed by the Defendant, as well as the Rights and Responsibilities. There was no reported earned income (Exhibit -3).
- 6) The School Clothing Allowance Application dated July 31, 2006 was signed by the Defendant, as well as the Rights and Responsibilities. There was no reported earned income (Exhibit -4).
- 7) The Department requested and received a Wage Verification for the Defendant's husband on June 21, 2006. The Defendant's husband has been employed since July 11, 2006 and was currently working (Exhibit -5).
- 8) The Food Stamp Claim Determination sheets indicate the Defendant's household received \$7,647.00 in Food Stamp benefits when they were only eligible for \$1,288.00 for the period covering July 2005 – July 2006. This was calculated in the following manner: \$7,647.00 (Issued Amount) - \$1,288.00 (Eligible Amount) = \$6,359.00 over issued Food Stamp benefits (Exhibit -6).
- 9) The Repayment Investigator issued a Notification of Intent to Disqualify to the Defendant on October 20, 2006. A response was not received from the Defendant and an appointment was scheduled for November 13, 2006 to discuss the matter. The

Defendant failed to show and the Repayment Investigator requested an Administrative Disqualification Hearing (Exhibit -7).

- 10) 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.
- 11) The Code of Federal Regulations defines an Intentional Program Violation (IPV) in 7 CFR 273.16 as ‘... 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 Program Regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system(access device).

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) The Defendant intentionally withheld reporting her husband’s earned income on several occasions and in a timely manner. This resulted in an over issuance of Food Stamp Benefits in the amount of \$6,359.00 for the period covering July 2005 through July 2006.

IX. DECISION:

It is the decision of this State Hearing Officer that the Defendant committed an Intentional Program Violation. She will be sanctioned from the Food Stamp Program for a period of 12 months effective February 2007.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant’s Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 11th Day of January 2007.

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