



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

April 3, 2007

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

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 8, 2007. 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: 07-BOR-699**

**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 March 8, 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 March 8, 2007 on a request, filed by the Agency on February 2, 2007.

It should be noted here that any adverse action of the agency has been postponed pending a hearing decision. The claimant did 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 CHIP application dated March 14, 2006
- D-3 Food Stamp review dated April 20, 2006
- D-4 Verification of son's earnings February 20, 2006 thru July 10, 2006
- D-5 WV Income Maintenance Policy 1.2
- D-6 WV Income Maintenance Policy 9.1
- D-7 WV Income Maintenance Policy 20.1

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

- 1) The defendant's son began employment at [REDACTED] on January 30, 2006. He received pays on February 20, 2006 and received pays consistently through July 2006.
- 2) The defendant submitted an application for WV Children's Health Insurance (CHIP) on March 14, 2006. On this application, the defendant listed her employed son as being a household member. Under the question, "does anybody in your home have income from any of the following?" the defendant only indicated that she had income.

- 3) On April 20, 2006, the Defendant returned to the Department to complete a Food Stamp review. During this review, she again reported this son was a member of her household. When questioned about income in the home, she reported only her employment. She did not report that her son was employed at [REDACTED]. The defendant was advised during this review process of her responsibility to report accurate information and of the consequences for failing to do so.
- 4) The caseworker received a computer alert that the defendant's son was employed. This caseworker referred the case to the Claims and Collection unit and the income verification was requested from the employer. The employer submitted income verifications showing \$265.88 for February, \$870.10 for March, \$848.19 for April, \$1555.48 for May, \$537.67 for June and \$114.66 for July.
- 5) At the time of the April 20 Food Stamp review, the defendant's son had been employed for approximately three months and had received earnings of \$1984.15.
- 6) The Defendant admits that she did not report her son's income and explains that her reason for not reporting this was that she did not know he was working. She testified that she would not see her son much more than one time per week. She said that he would come and go and often times would stay at other people's houses. She said that he did not give her any money and just used her address. She stated that she had been advised by a Department worker that if someone used her address, that she should report him or her as a household member.
- 7) The defendant was made aware of her responsibility to report accurate information. The Department advised the defendant 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 or giving false information is considered to be in violation of the Food Stamp program rules.
- 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 residing in her home and of the income received by these household members. It is clear that she withheld information regarding her son's income. It is not reasonable to believe that this defendant would not be aware that her son had been employed for almost three months and had received earnings of nearly \$2,000. It is also not reasonable to believe that this defendant truly thought that if someone only used her address, that she should receive Food Stamp benefits for them.
- 4) The defendant clearly did withhold information regarding income of a reported household member. Evidence and testimony is clear and convincing that the defendant intentionally withheld this income 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 Intentional Program Violation effective May 1, 2007 and to proceed with collection activities for the overpayment of \$612.

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

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 3rd Day of April 2007.**

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**Sharon K. Yoho  
State Hearing Officer**