



**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

July 19, 2006

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

Dear Ms. \_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 11, 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 misused your Food Stamps Benefits by refunding money onto your EBT account. This resulted in an over issuance of Food Stamp Benefits in the amount of \$120.00 for the month of December 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 September 2006.

Sincerely,

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

cc: State Board of Review  
Mr. Todd Thornton, Repayment Investigator

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

\_\_\_\_,

**Defendant,**

**v.**

**Action Number: 06-BOR-1302**

**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 July 19, 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 April 11, 2006 on a timely appeal filed March 6, 2006. The Scheduling Notice, Request for an Administrative Disqualification Hearing, and Waiver of Administrative Disqualification Hearing forms were mailed to all parties via First Class Mail on March 6, 2006 (Exhibit -4).

The issue in this particular matter involves the defendant, Ms. \_\_\_\_\_, intentionally intentionally misused her Food Stamps Benefits by refunding money onto her EBT account. This allegedly resulted in an over issuance of Food Stamp Benefits in the amount of \$120.00. 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 Ms. \_\_\_\_\_ 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:**

Todd Thornton, 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, \_\_\_\_\_, 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:**

DHS-1	EBT System Detail Journal Inquiry
DHS-2	EBT System Transaction Detail
DHS-3	EBT System Reference Codes
DHS-4	IG-BR-30; 31; 44 dated 03/06/06

#### **Claimants' Exhibits:**

None

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

1) On January 6, 2005 the Investigation and Fraud Management Unit received a referral from the Income Maintenance Unit regarding \_\_\_\_\_. The referral was for the misuse of Food Stamps by refunding money onto her EBT account. While working for \_\_\_\_\_, \_\_\_\_\_ keyed in refunds onto her EBT card on two occasions in December 2004. Because she was not entitled to these additional Food Stamps, this caused a Food Stamp over issuance of \$120.00 – the total of the refunds.

2) The West Virginia Department of Health and Human Resources requested this hearing to establish an Intentional Program Violation (IPV) and request a repayment of the over issuance. 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. Since Ms. \_\_\_\_ is not authorized to credit her EBT account by refunding money directly onto the card, this claim is being pursued.

3) The EBT System Detail Journal Inquiry Printout (DHS -1), shows all transactions on Ms. \_\_\_\_'s EBT account during the claim period. On December 24, 2004 at 11:55 a. m. a transaction type "2.0" was processed on Ms. \_\_\_\_'s account in the amount of \$75.00. On December 27, 2004 at 4:16 p. m. a transaction type "2.0" was processed on Ms. \_\_\_\_'s account in the amount of \$45.00. Both transactions were completed at [REDACTED] with Approval Codes (under the heading 'AFSC') of 'YNNK'.

4) The EBT Transaction Detail Printout (DHS-2), shows details to each line entry on DHS-1. These printouts confirm the dollar amounts and transaction type listed in DHS-1. Also, the merchant and the merchant's location are listed as [REDACTED] – Ms. \_\_\_\_'s employer at the time of the transactions.

5) The EBT Reference Codes Printout (DHS -3), were included to explain the codes used in the previous exhibits. The heading "Transaction Type Codes" lists a transaction code of "2.0" as a POS (Point of Sale) Food Stamp Credit. This means that the transactions were processed at the vendor [REDACTED] and should have been used to reverse the previous transaction.

The heading "Approval Codes – AFSC" shows that a code on 'YNNK' means: Y – the transaction was approved; N – it was a no fee transaction; N – there was no surcharge for the transaction; and K – it was keyed in manually, requiring the pin number to process.

6) Ms. \_\_\_\_ has been receiving benefits from the Department of Health and Human Resources since December 2000. She has completed several applications and reviews during that time. Since the claim is the result of Ms. \_\_\_\_ using her register to process invalid refunds from her employer onto her EBT account, this was not an acceptable use of her EBT Food Stamp Card. Ms. \_\_\_\_'s monthly Food Stamp benefits were determined by her case worker. As such, Ms, \_\_\_\_ was not authorized to distribute additional Food Stamps to her EBT account.

7) 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.

8) 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.

9) 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) Ms. \_\_\_\_ intentionally misused her Food Stamps Benefits by refunding money onto her EBT account. This resulted in an over issuance of Food Stamp Benefits in the amount of \$120.00 for the month of December 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 12 months effective September 2006.

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

See Attachment

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

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 19th Day of July 2006.**

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