



**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 18, 2006

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 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 withheld reporting your unearned income on several occasions and in a timely manner. This resulted in an over issuance of Food Stamp Benefits in the amount of \$536.00 for the period covering October 2005 through November 2005.

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
Mrs. Jennifer Butcher, Repayment Investigator

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

_____,
Defendant,

v.

Action Number: 06-BOR-1629

**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 18, 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 July 11, 2006 on a timely appeal filed April 14, 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 April 14, 2006 (Exhibit -9).

The issue in this particular matter involves the defendant, Ms. _____, intentionally withholding facts about household unearned 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 \$536.00. 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:

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, _____, 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	Application dated 08/25/05 (Food Stamps & WV WORKS)
Exhibit -2	WV WORKS Screening Questions
Exhibit -3	Case Comments dated 09/02/05 – 09/27/05
Exhibit -4	Benefit Recovery Referral dated 11/04/05
Exhibit -5	Benefit Payment History
Exhibit -6	Food Stamp Claim Determination
Exhibit -7	Notification of Intent to Disqualify dated 03/01/06
Exhibit -8	Rights and Responsibilities dated 08/25/05
Exhibit -9	IG-BR-30; 31; 44 dated 04/14/06

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

1) The Investigation Fraud Unit received a referral from the Income Maintenance Unit that _____ failed to report the onset of her unemployment income, on August 25, 2005. Because

of this unreported income, an over issuance of Food Stamps in the amount of \$536.00 occurred between the months of October 2005 through November 2005.

2) The West Virginia Department of Health and Human Resources requested this hearing for the purpose of determining if _____ 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.

3) The Application dated August 25, 2005 for Food Stamps and West Virginia Works indicates Ms. _____ understood her Rights and Responsibilities. Her signature signifies an acceptance and understanding of the terms of the application (Exhibit -1).

4) A WV WORKS Questionnaire form is used for applications. One set of questions asks "If anyone in the household received income this month and what was the income?" Ms _____ indicated her last day of work was July 28, 2005 with one pay in August. She withheld the source of her income (Exhibit -2).

5) The Case Comments dated September 2, 19, 26, and 27, 2005, indicates Ms. _____ had face to face and telephone contacts with the Department. She failed to use these opportunities to report the receipt of Unemployment Benefits effective August 27, 2005. Ms. _____ received unearned benefits in the amount of \$192.00 each week (Exhibit -3).

6) The Income Maintenance Unit made a Benefit Recovery Referral to the Repayment Unit on November 4, 2005. The Referral stated that the customer began receiving unemployment compensation effective August 29, 2005, and receives \$384.00 biweekly. The unemployment benefits were discovered through a review of the data exchange printout (Exhibit -4).

7) The Benefit Payment History of Unemployment Benefits for Ms. _____ indicates the receipt of \$192.00 per week, for the period covering August 27, 2005 through January 28, 2006 (Exhibit -5).

8) The Food Stamp Claim Determination Sheet shows the amount of Food Stamps Ms _____ received (\$556.00), and the correct amount (\$20.00) if the unemployment was reported correctly (Exhibit -6).

9) A Notification of Intent to Disqualify letter (IG-BR-44a), and Waiver of Administrative Disqualification Hearing (IG-BR-44) were mailed to Ms. _____ on March 1, 2006. The letter requested a response within 10 days. On March 27, 2006 an appointment letter IFM-1 7L was mailed asking Ms. _____ to come into the office on April 6, 2006 at 9:30 a. m. to discuss the claim. Ms. _____ did not respond (Exhibit -7).

10) According to the Rights and Responsibilities Section "FOR All PROGRAMS" number #31 states, "I agree to notify DHHR of the following changes within **10 days** if: **For Food Stamp Benefits Only:** This does not apply to Simplified Reporting households certified for 6

months - Item C. There are changes in my household's amount of unearned income or gross monthly income." (Exhibit -8).

11) Ms. _____ has been receiving benefits from the Department of Health and Human Resources since November 1999. She has completed several applications and reviews, as well as signing the Rights and Responsibilities. Her signature on the Rights and Responsibilities is acknowledgement to report changes and the onset of income.

12) 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.

13) 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.

14) 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 withheld reporting her unearned income on several occasions and in a timely manner. This resulted in an over issuance of Food Stamp Benefits in the amount of \$536.00 for the period covering October 2005 through November 2005.

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 18th Day of July 2006.

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