



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
Board of Review
P.O. Box 2590
Fairmont, WV 26555-2590

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

March 10, 2005

_____ & _____

Dear Mr. _____ and Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your Administrative Disqualification Hearing held February 8, 2005.

In arriving at a decision, the State Hearing 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.

Intentional Program Violations 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 Program Regulations, or any State statute relating to the use presentation, transfer, acquisition, receipt or possession of Food Stamp coupons. Individuals found to have committed an act of Intentional Program Violation will be ineligible for a specified time determined by the number of previous Intentional Program Violation disqualifications. (West Virginia Income Maintenance Manual ' 20.2 and Code of Federal Regulations-7 CFR ' 273.16)

Information submitted at the hearing revealed that you failed to report child support income received by _____ by intentionally withholding information about your household income, you received Food Stamp benefits for which you were not eligible. The withholding or concealment of information to receive Food Stamp benefits constitutes a clear violation of the regulations.

It is the decision of the State Hearing Officer that you committed an Intentional Program Violation and a disqualification penalty of one (1) year will be applied. This disqualification will begin May 1, 2005.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Teresa Smith, SRI, DHHR

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
SUMMARY AND 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 March 10, 2005 for _____ and _____. 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 hearing was convened on February 8, 2005.

It should be noted here that the Defendants are current recipient of Food Stamp benefits.

All persons giving testimony were placed under oath.

II. PROGRAM PURPOSE:

The **Food Stamp Program** is set up cooperatively between the Federal and State Government and administered by the West Virginia Department of Health and 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 coupons to households who meet the eligibility criteria established by the Food and Nutrition Service of the U. S. Department of Agriculture.

III. PARTICIPANTS:

Teresa Smith, SRI, DHHR
Presiding at the hearing was Thomas E. Arnett, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question is whether the Defendants committed an Intentional Program Violation (IPV) and should be disqualified for a specified period from participation in the Food Stamp Program.

V. APPLICABLE POLICY:

7 CFR ' 273.16 USDA Code of Federal Regulations
Common Chapters Manual Chapter 700 App A
West Virginia Income Maintenance Manual ' 1.2, 20.2, 20.2 C & D

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

- DHS-1 Combined Application and Review Form Signed by the Defendants on April 9, 2003.
- DHS-2 Case Comments from RAPIDS from 4/10/03 to 7/1/03.
- DHS-3 Income verified with the Department
- DHS-4 Food Stamp Claim determination for the period 4/8/03 thru 9/30/03.
- DHS-5 Notification of Intent to Disqualify dated August 9, 2004
- DHS-6 WVIMM Chapter 1.2, 1.4, 9.1, 10.3 & 20.2

VII. FINDINGS OF FACT CONCLUSIONS OF LAW:

- (1) An Administrative Disqualification Hearing was requested by Repayment Investigator Teresa Smith on September 10, 2004. Ms. Smith contends that the Defendants intentionally withheld information about child support income received by _____ to receive Food Stamp benefits.
- (2) Notification of the February 8, 2005 hearing was mailed to the Defendants on December 23, 2004 via First Class Mail as the Defendants are current recipient of Food Stamp benefits.
- (3) The hearing convened as scheduled at 11:30 a.m. and as of 11:45 a.m., the Defendants failed to appear. As set forth in regulations [7 CFR 273.16 (e) (4)], and State Policy (700 of Common Chapters Manual Appendix A Part F), the hearing was conducted without the Defendants in attendance.
- (4) An application for Food Stamp benefits was completed by the Defendants on April 9, 2003 (DHS-1). The Defendants reported six (6) individuals in the household - two (2) adults and four (4) children. Household income was reported to be _____'s self-employment and child support received for his two (2) children (DHS-1).
- (5) Case Comments recorded by the Worker on the date of application indicate the Defendants reported that _____ has not received child support for her children since November 2002 (DHS-2). This exhibit also shows that the Defendant's Medicaid case was reviewed during an office visit in July 2003. There was no new or additional income reported during this review.
- (6) Department's exhibit DHS-3, child support payment verification from _____ County Child Support Enforcement Agency in _____ verifies that _____ received \$341.78 monthly during the period March 2003 through October 2003. This income was not reported at the time of application (4/9/03) or at anytime thereafter.
- (7) The Department submitted exhibit DHS-4 to show that by withholding information about _____'s child support income, the Defendants received \$1251 in Food Stamp benefits during the period April 8, 2003 through September 2003.
- (8) The Defendants were made aware of their responsibility to provide true and correct information as indicated by their signature on the application and the Rights and Responsibilities form dated April 9, 2003 (DHS-1).
- (9) West Virginia Income Maintenance Manual ' 1.2 (E) states that it is the client's responsibility is to provide information about his circumstances so the worker is able to make a correct decision about his eligibility.

- (10) West Virginia Income Maintenance Manual ' 10.4, C:
This section contains policy relating income disregards and deductions and computation of and eligibility for Food Stamp benefits. It also states: To determine the coupon allotment, find the countable income and number (of persons) in the benefit group.
- (11) West Virginia Income Maintenance Manual ' 20.2:
When a benefit group has been issued more Food Stamps than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation or Intentional Program Violation claim. The claim is the difference between the allotment the client received and the allotment he should have received.
- (12) West Virginia Income Maintenance Manual ' 20.2 (C) (2):
Once an IPV (Intentional Program Violation) is established a disqualification penalty is imposed on the AG (assistance group) members who committed the IPV.
The penalties are as follows: (' 9.1, A, 2, g) 1st Offense: 1 year (Disqualification)
- (13) Common Chapters Manual 700, Appendix A, provides that an 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 Program Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt or possession of food stamp benefits.
- (14) The Code of Federal Regulations, found at 7 CFR ' 273.16 (e) (6), states that the hearing authority shall base the determination of Intentional Program Violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, an intentional Program violation.

VIII. DECISION:

Policy provides that an Intentional Program Violation (IPV) for purposes of the Food Stamp Program will include the making of false or misleading statements, misrepresentations or the concealment or withholding of facts in attempting to secure Food Stamp benefits.

The Defendants signed the Combined Application and Review Forms on April 9, 2003 acknowledging the penalties for fraudulent or misleading acts and their responsibility in providing correct and truthful information.

Evidence is clear that the Defendants intentionally misrepresented their household situation by withholding information necessary in determining eligibility and Food Stamp benefit levels. The Defendants failed on two occasions to report child support income received by _____, and by by intentionally withholding information about their income, the Defendants received an overissuance of Food Stamp benefits in the amount of \$1251. The withholding or concealment of information to secure Food Stamp benefits constitutes a clear violation of the regulations. Based on evidence presented, I find the violation intentional.

The Agency's request for a one (1) year disqualification is **upheld**.

Only _____ and _____ are subject to this disqualification.

This disqualification will begin May 1, 2005.

IX. RIGHT OF APPEAL:

See Attachment

X. ATTACHMENTS:

The Defendant's Recourse to Hearing Decision

Form IG-BR-29