



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P.O. Box 1736
Romney, WV 26757

Joe Manchin III
Governor

February 1, 2005

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your administrative disqualification hearing held January 19, 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.

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 revealed that on September 16, 2004 you supplied false information regarding your husband's employment and the start date of your employment. Testimony and evidence submitted at the hearing supports the Department's belief that you were made aware of your obligations to report accurate information and intentionally failed to do so.

It is the ruling of the State Hearing Officer that you committed an Intentional Program Violation. Refer to Section VIII. of the Hearing Summary, for the disqualification lengths.

Sincerely,

Sharon K. Yoho
State Hearing Officer
Member, State Board of Review

cc: Karen Crossland, Repayment Investigator
Erika Young, Chairman of Board of Review

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES

NAME: _____

ADDRESS: _____

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 January 19, 2005, in the case of _____.

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, DHHR. This hearing was convened on January 19, 2005. Ms. _____ was given 30 days advanced notice of this hearing date in a written notice mailed to the address where she receives active benefits from DHHR. She failed to appear for the hearing. The hearing was held in her absence.

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

Karen Crossland, Repayment Investigator

Presiding at the hearing was Sharon Yoho, State Hearing Officer and a member of the State Board of Review.

February 1, 1005

IV. QUESTION(S) TO BE DECIDED

The question to be decided is whether it was shown by clear and convincing evidence that the defendant, _____, committed an act of intentional program violation.

V. APPLICABLE POLICY

Common Chapters Manual, Chapter 700, Appendix A, Section B
WV Income Maintenance Manual Section § 9.1, A, 2, g; and Section § 20.2, C.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED

Department Exhibits:

- DHS-1 Food Stamp Claim Determination
- DHS-2 Application and Rights & Responsibilities signed and dated September 16, 2004
- DHS-3 Verification of Income and start date from Subway
- DHS-4 Verification of Wages paid to _____
- DHS-5 WV Income Maintenance Manual Section 1.2
- DHS-6 WV Income Maintenance Manual Section 9.1
- DHS-7 WV Income Maintenance Manual Section 20.1
- DHS-8 Common Chapters Manual, Chapter 700, Appendix A, Section

VII. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Ms. _____ completed a Food Stamp review in the Hardy County DHHR office on September 16, 2004. At this review she reported that her husband, _____ was no longer working. She also reported that she had started a job at Subway on August 17, 2004.
2. Food Stamps for October were calculated based on prospected Subway earnings.
3. _____ came in to the DHHR office on October 1, 2004 and provided three pay stubs for himself from George's Chicken and also reported that his wife _____ was no longer working at Subway.
4. _____'s first pay from George's Chicken was for the date of September 11, 2004 and was for 15.58 hours worked. Obviously, Mr. _____ was employed at George's Chicken on September 16, 2004 at the time _____ completed the Food Stamp review.
5. A referral was made to the Claims and Collection unit. The Repayment Investigator sent for verification of earnings from both George's Chicken and from Subway.
6. The earnings verification came back from Subway showing a start date of June 12, 2004 instead of the reported start date of August 17, 2004.

February 1, 2005

VII. Section Continued:

7. The Department presented case information in DHS-2 showing that the defendant was made aware of her obligation to report accurate household income. Ms. _____ signed her Rights and Responsibilities on September 16, 2004 which advised her that if found by administrative disqualification hearing to have committed an act of intentional program violation, that she would not receive Food Stamps for one year, as the result of a first violation.
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 §20.2 states:** Intentional Program Violations include making

false or misleading statements, misrepresentations, concealing or withholding information.

10. **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.
11. **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. DECISION

The evidence and testimony given at the Administrative Disqualification Hearing clearly shows that the defendant was made aware of her responsibility to report accurate information so that the Department could compute accurate benefits. It further shows that the defendant intentionally provided false information regarding the start date of her employment and further gave false information regarding her husband's employment status.

It is the finding of the Hearing Officer that the defendant was aware of the consequences of intentionally providing false information. It is the ruling of the State Hearing Officer that the defendant committed an Intentional Program Violation by providing false information. The defendant will be disqualified from participation in the Food Stamp Program for twelve (12) months beginning with March 2005.

February 1, 2005

IX. RIGHT OF APPEAL

See Attachment.

X. ATTACHMENTS

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29.