



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 West Washington Street
Charleston, West Virginia 25313

Joe Manchin III
Governor

February 16, 2005

Dear Mr. _____;

Attached is a copy of the findings of fact and conclusions of law on your administrative disqualification hearing held January 11, 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 (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)(f) of the WV Income Maintenance Manual and 7 CFR Section 273.16).

The information submitted at the hearing revealed that: You failed to report income received from August 2003 through June 2004. This resulted in an over issuance of \$1,429.00 in Food Stamp Benefits. The overpayment period covers August 2003 through June 2004.

It is the decision of the State Hearing Officer, to uphold the Department's proposal, that you did commit 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 April 2005.

Sincerely,

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

cc: State Board of Review
Jennifer Butcher, Repayment Investigator

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 February 16, 2005.

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 originally convened on January 11, 2005, on a timely appeal filed by the Department on November 8, 2004.

It should be noted here that, the defendant is a current recipient of Food Stamp Program 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

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. 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 intentional program violation.

V. APPLICABLE POLICY

Common Chapters Manual, Chapter 700, Appendix A, Section B and; WV Income Maintenance Manual Section 9.1 (A)(2)(f)

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED

- D ADH Hearing Summary
- D-1 Verification Checklist dated 04/04/03
- D-2 Combined Application and Review Form dated 04/20/04
- D-3 Case Comments 05/15/03 – 04/20/04
- D-4 Employment Verification dated 0816/04 (____) – ____ University Sport
- D-5 Employment Verification dated 0816/04 (____) – B. W. Painter, Inc.
- D-6 Employment Verification dated 0816/04 (____) – LJR Learning Systems, LLC
- D-7 Food Stamp Claim Determination - \$938.00
- D-8 Food Stamp Claim Determination - \$491.00
- D-9 WVIMM Chapter 2.2 B(1) TIMELY REPORTING AND FOLLOW-UP
- D-10 IG-BR-30; IG-BR-31 & IG-BR-44

VII. FINDINGS OF FACT

- Mrs. Butcher submitted the following ADH Hearing Summary:

I. IDENTIFYING INFORMATION

NAME: ____ and ____

ADDRESS: ____

AGE: 45 and 41

CASE #: ____

WORKERS INVOLVED DURING PERIOD IN QUESTION: Cheryl Turnes

II. CASE DATA

DATE OPENED: July 11,1997 DATE CLOSED: Currently open.

OVERPAYMENT PERIOD: August 2003 thru June 2004

AMOUNT OF FOOD STAMPS OVER ISSUED:\$1,429.00

ELIGIBILITY FACTOR INVOLVED: Failure to report onset of earned income

III. SUMMARY OF FACTS

The Investigation Fraud Unit received a referral from the IM Unit. That ____ and ____ failed to report the onset of employment of their children ____ and ____ after they turned 18 years of age. This income needed to be counted against the amount of Food Stamps the household was eligible to receive. Because of this unreported income an over issuance of Food stamps occurred for the period of August 2003 thru June 2004.

The West Virginia Department Health and Human Resources has requested this hearing be held for the purpose of determining that ____ and ____ committed an Intentional Program Violation (IPV). The Federal Register, 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 Food stamps coupons or ATP's.

EXB-1 ES2 review and Rights and Responsibilities (R&R) for Food Stamps dated 4/4/03. This review and the R&R was signed by both ____ and ____ accepting the responsibilities and acknowledging that all statement were true and correct and that they will report any and all changes within 10 day of when they occur.

EXB-2 ES review and R&R for Food Stamps dated 4/20/04 Both ____ and ____ signed the review and R&R accepting responsibilities and to report changes within 10 days.

EXB-3 CMCC dated 4/20/04 At this time it was reported that ____ was working 20 hrs per week and going to WVSC. Also as you can see by the dates the ____s did not have any contact with the Department between May 15,2003 and April 20,2004. So how could they have reported within 10 days of ____ starting to work or going to WVSC.

At this time the Income Maintenance worker sent the referral to the Repayment Unit.

EXB-4 IFM-5A request for Income Verification was sent to ____ University Sport , B W Painter Inc and LJR Learning Systems LLC on August 16,2004.All these businesses were employers for either ____ or ____ . I received information back on ____ on 10/1/04 stating ____ worked there from July 2, 2003 to October 14,2003. Received BW Painter Inc on August 26,2003 ____ worked there from November 3,2003 to June 18,2004. And received LJR Learning Systems on September 1, 2004 ____ started working on December 2,2003 and is still employed as of August 30,2004.

____ or ____ failed to report these onsets of income within 10 days of them knowing of the change.

EXB-5 ES-FS-5 food Stamp Claim Determination calculation sheets. These show what the household received and what they should have received if they had reported timely.

IV. RIGHTS AND RESPONSIBILITIES: EVALUATION OF CLIENT'S UNDERSTANDING OF AGENCY POLICY AND RECOMMENDATION

____ and ____ have received benefits since at least July 1997 and they have completed many applications and reviews. And each time they read or had read to them the Rights and Responsibilities and accepted all responsibilities to report any and all changes that occur within 10 days that is stated on page 5 item 31 and in the Income Maintenance Manual Chapter 2.2 section B Reporting Requirements " Changes must be reported within 10 days of the date the change becomes known to the benefit group. From ES-FS-2 is one means by which this may be done."

I am requesting that ____ and ____ be sanctioned for the First offence of Intentional Program Violation for a period of 12 months because they intentional withheld the

information of their children ____ and ____ employment and to repay the sum of \$1,429.00 that was over issued to them form August 2003 to June 2004.

- Mr. ____ did not attend the Administrative Disqualification Hearing.
- A decision was rendered at the conclusion of the hearing.

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. 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.

IX. DECISION

It is the decision of this State Hearing Officer that, Mr. ____ committed an Intentional Program Violation. Based on the information submitted at the hearing, Mr. ____ failed to report information that would affect his Food Stamp Benefits.

Mr. ____ will be sanctioned from the Food Stamp Program for a period of twelve (12) months and, must repay \$1,429.00 in over issued Food Stamp Benefits.

X. RIGHT OF APPEAL

See Attachment.

XI. ATTACHMENTS

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29