



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

Secretary

February 16, 2005

Dear Mr. _____ :

Attached is a copy of the findings of fact and conclusions of law on your administrative disqualification hearing held December 21, 2004.

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 correct household composition and Unemployment Income. This resulted in an over issuance of \$447.00 in Food Stamp Benefits. The overpayment period covers April 2004 through May 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
Bennie Cogar, Criminal 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 December 21, 2004, on a timely appeal filed by the Department on October 26, 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

Bennie Cogar, Criminal Investigator
Lynn McCourt, Repayment Investigator (Observing)

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-1 Combined Application and Review Form (Food Stamps) dated 04/05/04
- D-2 Combined Application and Review Form (WV WORKS) dated 04/09/05
- D-3 Case Comments 04/05/04 – 05/05/04
- D-4 Benefit Payment History Printout
- D-5 Cash Assistance Claim Determination
- D-6 Food Stamp Claim Determination
- D-7 Notification of Intent to Disqualify with attachment dated 09/10/04
- D-8 IG-BR-30, IG-BR-31 & IG-BR-44
- D-9 GroupWise Messages re: Appearance & Documents

VII. FINDINGS OF FACT

- Mr. Cogar submitted the following ADH Hearing Summary:

Client Data:

Case Name: _____

Certificate Number: _____

Address: _____

Economic Service Worker(s) Involved: Stamper, ESW; Amber Kroening, ESW; Rhonda McKown, Repayments Investigator

Case Data:

ES-2 dated 04/05/04. Food Stamp review and Medicaid application based on two person household with zero income.

ES-2 dated 04/09/04. WVW application based on two person household with zero income. WVW backdated to 04/05/04. A 25% reduction applied as _____ and his son lives with _____'s mother. No rent or utility expenses.

Home visit conducted 04/30/04. _____ never appeared for Spokes classes that he was supposed to start 04/19/04. _____'s sister was at residence and informed worker that client did not live there and was unsure where he was living but may have been living with his mother-in-law. Case pended for verification of residency.

On 05/05/04, it was verified that child's mother, _____, had custody of the child and has had custody prior to 02/05/04. She took custody of the child at last family court

hearing. _____ stated _____ may be staying with friends in _____. _____ removed from case. Case pended for verification of residency and referral made to Repayments.

Specifics:

_____ applied for WVW, Food Stamps, and Medicaid for himself and his child, _____ on 04/05/04. It was later verified that the mother, _____, has had custody of _____. since 02/04. OSCAR also backs up this information as parents went to court 02/17/04 and _____ was ordered to pay _____ child support.

UCI data exchange also shows _____ was receiving UCI benefits from 04/12/04 thru 06/20/04 which he failed to report.

Household ineligible for WVW as child did not live in the home. Household over-issued WVW of \$561.00 from 04/05/04 thru 05/31/04.

Household was over-issued food stamps of \$447.00 for same period due to UCI income and child not living in the home.

_____ was mailed an IG-BR-44 and IG-BR-44a on 09/10/04 and failed to respond.

Summary:

I am requesting this hearing so that both _____ and the WV DHHR can present whatever evidence they have. I request that the evidence be reviewed and a determination be made regarding the Intentional Program Violation as described by Policy

- Mr. _____ did not attend the Administrative Disqualification 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, _____ 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 \$ 447.00 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

