



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

Martha Yeager Walker
Secretary

June 1, 2005

Dear Mr. _____

Attached is a copy of the findings of fact and conclusions of law on your administrative disqualification hearing held May 17, 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 numerous occasions, false information was provided regarding household income. Testimony and evidence submitted at the hearing supports the Department's belief that you were made aware of your obligations to report complete and accurate information and that you knowingly failed to do so.

It is the ruling of the State Hearing Officer that you have 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: Teresa Smith, Repayment Investigator
Erika Young, Chairman of Board of Review

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES

DATE: **June 1, 2005**

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 May 17, 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 May 17, 2005 on a request received from the DHHR Agency January 18, 2005.

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

_____, Co-Defendant

_____, Co-Defendant

Teresa Smith, Repayment Investigator

Presiding at the hearing was Sharon Yoho, 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 defendants, _____, 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 Medicaid application signed by _____ dated 06/28/04
- DHS-2 Application and Rights & Responsibilities signed by both _____ dated 09/02/04
- DHS-3 Application and Rights & Responsibilities signed by both _____ dated 11/09/04
- DHS-4 Case comments from 09/02/04 through 12/29/04
- DHS-5 Online computer query of Social Security income for _____
- DHS-6 Letter history from 09/02/04 through 01/25/05
- DHS-7 Food Stamp Claim Determination
- DHS-8 Notice of Intent to Disqualify 01/12/05
- DHS-9 WV Income Maintenance Manual Section 1.2; 1.4; 9.1; 10.3; 20.2 and Appendix A

VII. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. On June 28, 2004 _____ completed a medical application. She listed three persons in the household. Persons listed were, _____ and _____'s brother _____. _____ was made aware of their Responsibilities to report accurate information. Under the section asking, "Does anybody in your home have income", she checked the NO box for Social Security.
2. On September 02, 2004, both _____ and _____ applied for Food Stamps and again _____ was reported to be a member of their household. The applicants were both made aware of their obligations to report accurate information. No income was reported for anyone in the household. Food Stamps were issued based on zero income.
3. _____ called the DHHR office on October 07, 2004 to request case closure due to _____ beginning employment.
4. On November 9, 2004, both _____ and _____ returned to the DHHR office to again apply for Food Stamps for themselves and _____'s brother, _____. Again, no income was reported for anyone in the household. _____ and _____ both signed the rights and responsibility section of this application, which clearly explains the obligation to report correct and complete information and the consequences of not doing so.
5. Case comments of December 29, 2004 indicate that the agency received a computer data exchange that identified _____ as a recipient of Social Security benefits in the monthly amount of \$992. The caseworker referred this information to the Repayment Investigation unit. The data exchange shows that _____ had been receiving this Social Security income since December 2003.
6. The letter history shows that each application approval letter sent to the clients outlined what income the agency was counting toward the Food Stamp benefits.
7. _____ testified that she was aware of the Social Security income that _____ was receiving and that _____ did not usually give them any of his Social Security income to help out with living expenses. She said that _____ gets his check and cashes it and that he helps them some. She explained that _____ was _____'s guardian. She explained that she thought she had reported _____'s income at the first application, but did not wish to have the caseworker who took that application appear as a witness. _____ too admitted that he was aware that _____ had Social Security income and that he did not report the income. He too explained that _____ did not give them much of his money to help out. He added that he did not withhold the income information on purpose.

VIII. CONCLUSIONS OF LAW

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 § 1.4, states:** Individuals who have committed an Intentional Program Violation (IPV) are ineligible for a specified time, determined by the number of previous (IPV) disqualifications.
10. **WV Income Maintenance Manual Policy § 20.2 states:** Intentional Program Violations include making false or misleading statements, misrepresentations, concealing or withholding information.
11. **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.
12. **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.

IX. DECISION

The evidence and testimony given at the Administrative Disqualification Hearing clearly shows that the defendant, _____ was made aware of his responsibility to report accurate and complete information. It further shows that the defendant intentionally withheld information regarding household income. Mr._____, on more than one occasion, was advised of his responsibility to report all household income and he failed to do so. He signed documents attesting to the fact that the information he had given was true and correct and that he accepts his responsibilities.

It is the finding of the Hearing Officer that the defendant was aware of the need to report all household income and chose to withhold part of the information. It is the ruling of the State Hearing Officer that the defendant committed acts of Intentional Program Violation by withholding information, which caused an inaccurate determination of eligible benefits. The defendant will be disqualified from participation in the Food Stamp Program for twelve (12) months beginning with July 2005.

X. RIGHT OF APPEAL

See Attachment.

XI. ATTACHMENTS

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29.

