



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
2699 Park Avenue, Suite 100
Huntington, WV 25704
April 15, 2005

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

[REDACTED] & [REDACTED]
Eleanor, WV 25070

Dear Mr. [REDACTED] & Ms. [REDACTED],

Attached is a copy of the findings of fact and conclusions of law on your administrative disqualification hearing held April 14, 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 20.2(D)(2)(e) of the WV Income Maintenance Manual and 7 CFR Section 273.16.

The information submitted at the hearing revealed that you both committed an intentional program violation of the Food Stamp Program by failing to properly report your household living circumstances which caused an overissuance of Food Stamps in the amount of \$2947 for the period of August 21, 2003 through May, 2004 and \$694 for the period of June, 2004 through November, 2004.

It is the ruling of the State Hearing Officer that you both committed an Intentional Program Violation of the Food Stamp Program and you will be individually disqualified from participation in the Food Stamp Program for a period of one (1) year beginning June, 2005.

Sincerely,

Thomas M. Smith
State Hearing Officer
Member, State Board of Review

cc: Board of Review
Debbie Roberts, Repayment Investigator

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES

NAME: [REDACTED] & [REDACTED]

ADDRESS: [REDACTED]
Eleanor, WV 25070

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 April 14, 2005 for [REDACTED] and [REDACTED].

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 originally convened on April 14, 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

1. [REDACTED], Defendant.
2. [REDACTED], Defendant.
3. Pam Gillespie, Income Maintenance Worker.
4. Debbie Roberts, Repayment Investigator.

Presiding at the hearing was Thomas M. Smith, State Hearing Officer and a member of the State Board of Review.

V. QUESTION(S) TO BE DECIDED

The question to be decided is whether it was shown by clear and convincing evidence that the defendants, [REDACTED] & [REDACTED], committed an intentional program violation of the Food Stamp Program.

V. APPLICABLE POLICY

Common Chapters Manual, Chapter 700, Appendix A.
WV Income Maintenance Manual Sections 1.2, 2.2, 9.1, 10.3, 10.4, 20.2.
7 CFR 273.1, 273.9, 273.16.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED

- Exhibit #DHS-1 Copy of benefit recovery referral.
" #DHS-2 Copy of manual section 1.2.
" #DHS-3 Copy of Food Stamp claim determination (23 pages).
" #DHS-4 Copy of federal regulations (12 pages).
" #DHS-5 Copy of combined application and review form 8-21-03 (10 pages).

" #DHS-6 Copy rights and responsibilities 8-21-03 (10 pages).
 " #DHS-7 Copy of case comments 8-25-03.
 " #DHS-8 Copy of case comments 9-17-03.
 " #DHS-9 Copy of case comments 11-4-03 (2 pages).
 " #DHS-10 Copy of combined application and review form 11-4-03 (10 pages).
 " #DHS-11 Copy of screening form.
 " #DHS-12 Copy of rights and responsibilities 11-4-03 (6 pages).
 " #DHS-13 Copy of case comments 11-13-03.
 " #DHS-14 Copy of case comments 11-25-03.
 " #DHS-15 Copy of case comments 1-6-04.
 " #DHS-16 Copy of case comments 1-16-04.
 " #DHS-17 Copy of letter 1-20-04 (2 pages).
 " #DHS-18 Copy of case comments 2-12-04.
 " #DHS-19 Copy of case comments and combined application/review form 4-20-04 (15 pages).
 " #DHS-20 Copy of rights and responsibilities 4-30-04 (8 pages).
 " #DHS-21 Copy of case comments 5-10-04.
 " #DHS-22 Copy of case comments 5-24-04.
 " #DHS-23 Copy of case comments 8-18-04 (2 pages).
 " #DHS-24 Copy of case comments and combined application/review form 11-5-04 (15 pages).
 " #DHS-25 Copy of rights and responsibilities 11-5-04 (9 pages).
 " #DHS-26 Copy of statement from [REDACTED].
 " #DHS-27 Copy of statement from [REDACTED] and [REDACTED] (2 pages).
 " #DHS-28 Copy of manual section 2.2 (2 pages).
 " #DHS-29 Copy of manual section 20.6.
 " #DHS-30 Copy of notification of intent to disqualify 2-19-05 (6 pages).
 " #DHS-31 Copy of manual section 20.1 (7 pages).

VII. FINDINGS OF FACT

1. Defendants received Food Stamps in the amount of \$2947 for the period of 8-21-03 through 05/04 and \$694 for the period of 6/04 through 11/04 for a total of \$3641 during which time they reported a three (3) person household which included Mr. [REDACTED], Ms. [REDACTED], and [REDACTED] and received Food Stamps while they actually were living with each of their parents.

2. Defendants signed application/review form on 8-25-03 (Exhibit #DHS-5) and signed the statement acknowledging the statements were true and correct and reported a three (3) person household.

3. Defendants completed application/review forms on 11-4-03 and 4-30-04 and again reported a three (3) person household (Exhibits #DHS-10 & #DHS-19 respectively) and had numerous other contacts with the Department including 9-17-03 (Exhibit #DHS-8), 11-13-03 (Exhibit #DHS-13), 1-26-04 (Exhibit #DHS-17), 2-12-04 (Exhibit #DHS-18), 5-10-04 (Exhibit #DHS-21), 5-24-04 (Exhibit #DHS-22), 8-18-04 (Exhibit #DHS-23)), during which time the defendants had the opportunity to report correct household circumstances.

4. Mr. [REDACTED] reported during a review on 11-5-04 that he had lived with his parents since he returned from Virginia and that Ms. [REDACTED] and the child lived with her parents.

5. Ms. [REDACTED] was under the age of 22 and not eligible to receive Food Stamps as a separate household and Mr. [REDACTED] did not reside with Ms. [REDACTED] during the period in which Food Stamps were received and an overissuance of Food Stamps occurred during the period of 8-21-03 through 05-04 in the amount of \$2947 and for the period of 6-04 through 11-04 in the amount of \$694 for a total overissuance of \$3641.

6. Ms. [REDACTED] requested a one-year disqualification period be imposed for Intentional Program Violation.

7. Mr. [REDACTED] testified that it was not intentional.

8. Ms. [REDACTED] testified that when she first came to the DHHR office, they were moving back and forth between parents and was told if she was under age 22, she could

not receive Food Stamps.

9. Defendants committed an Intentional Program Violation of the Food Stamp Program which caused an overissuance of \$3641 for the period of 8-21-03 through 11/04.

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.

VIII. DECISION

Based on the evidence and testimony presented, I must rule that sufficient evidence was presented during the hearing to show that Mr. [REDACTED] and Ms. [REDACTED] committed an Intentional Program Violation of the Food Stamp Program due to reporting false living circumstances.

IX. RIGHT OF APPEAL

See Attachment.

X. ATTACHMENTS

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29.