



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
May 24, 2005

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

Dear Ms. _____,

Attached is a copy of the findings of fact and conclusions of law on your administrative disqualification hearing held May 23, 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 committed an intentional program violation of the Food Stamp Program by failing to report that a benefit group member (_____) was no longer residing in your home causing an overissuance of Food Stamps in the amount of \$336 for the period of May through July, 2004.

It is the ruling of the State Hearing Officer that you 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 July, 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: _____

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 May 23, 2005 for _____.

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 May 23, 2005. It should be noted that the defendant did not attend the hearing but the hearing was convened in her absence as an appointment letter was sent by certified mail on April 20, 2005 notifying her of the date, time and location of the hearing and she signed a return receipt on April 21, 2005 acknowledging her receipt of the appointment letter. It should also be noted that the hearing was originally scheduled for April 19, 2005 but was rescheduled at Department's request.

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. 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 defendant, _____, 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, 20.2.
7 CFR 273.1, 273.16.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED

- Exhibit #DHS-1 Copy of Benefit Recovery Referral.
- " #DHS-2 Copy of WV Income Maintenance Manual Section 1.2.
- " #DHS-3 Copy of Food Stamp Claim Determination (12 pages).
- " #DHS-4 Copy of Federal Regulations 7 CFR 273.16 (12 pages).

" #DHS-5 Copy of Combined Application/Review form 10-20-03 (10 pages).

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" #DHS-6 Copy of Rights and Responsibilities (7 pages).

" #DHS-7 Copy of statement from _____.

" #DHS-8 Copy of time sheets (6 pages).

" #DHS-9 Copy of statement regarding _____ (3 pages).

" #DHS-10 Copy of case comments 4-13-04.

" #DHS-11 Copy of case comments 5-21-04 (2 pages).

" #DHS-12 Copy of case comments 6-18-04.

" #DHS-13 Copy of case comments 7-1-04.

" #DHS-14 Copy of WV Income Maintenance Manual Section 2.2 (2 pages).

" #DHS-15 Copy of notification letter (3 pages).

" #DHS-16 Copy of WV Income Maintenance Manual Section 20.1 (7 pages).

VII. FINDINGS OF FACT

1. Defendant was an active recipient of Food Stamps when the IFM Unit received a referral on 7-1-04 that prisoner match showed that assistance group member _____ was incarcerated at the _____ Jail in _____ WV since 3-26-04 (Exhibit #DHS-1).

2. The Defendant did not report that _____ was no longer a member of her household and an overissuance of Food Stamps occurred in the amount of \$336 for the period of May, 2004 through July, 2004 (Exhibit #DHS-3).

3. Defendant signed application/review form on 10-20-03 (Exhibit #5) and signed the rights and responsibilities acknowledging her understanding of such on 10-14-03 (Exhibit #DHS-6) and acknowledged her understanding of the penalties for Intentional Program Violation of the Food Stamp Program.

4. Statement from _____ dated 3-28-04 (Exhibit #DHS-7) states that he did not move out of his mother's home but only left for a few days.

5. The defendant had opportunities to report the change in household member status on 4-5-04 when she submitted a note about her GED class hours (Exhibit #DHS-9), on 4-13-04 when she was in the local office to turn in a medical statement (Exhibit #DHS-10), and on 5-21-04 when the caseworker conducted a home visit (Exhibit #DHS-11) and the defendant failed to report the change in her assistance group.

6. Ms. Roberts testified that the defendant intentionally withheld or concealed information related to the number of persons in the household and assistance group causing an overissuance in the amount of \$336 for the period of May, 2004 through July, 2004 (Exhibit #DHS-3) and requested a one-year disqualification period be imposed due to Intentional Program Violation.

7. The evidence and testimony show that the defendant committed an Intentional Program Violation of the Food Stamp Program which caused an overissuance of \$336 for the period of May, 2004 through July, 2004 (Exhibit #DHS-3) as she withheld or concealed information regarding household members.

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 Ms. _____ committed an Intentional Program Violation of the Food Stamp Program. Ms. _____ will be disqualified from participation in the Food Stamp Program for a period of one (1) year

beginning July, 2005.

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IX. RIGHT OF APPEAL

See Attachment.

X. ATTACHMENTS

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29.