



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P. O. Box 2590
Fairmont, WV 26555-2590

Joe Manchin III
Governor

March 4, 2005

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on the Food Stamp Administrative Disqualification Hearing held February 1, 2005 for the purpose of determining whether or not an Intentional Program Violation (IPV) occurred.

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.

Intentional Program Violations 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 Program Regulations, or any State statute relating to the use presentation, transfer, acquisition, receipt or possession of Food Stamp coupons. Individuals found to have committed an act of Intentional Program Violation will be ineligible for a specified time determined by the number of previous Intentional Program Violation disqualifications. (West Virginia Income Maintenance Manual ' 20.2 and Code of Federal Regulations- 7 CFR ' 273.16)

The information submitted at the hearing revealed that you intentionally provided false and misleading information about your household composition in order to receive Food Stamp benefits.

It is the decision of the State Hearing Officer that an Intentional Program Violation was committed by you and a disqualification penalty of one (1) year will be applied. This disqualification will begin May 1, 2005.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Teresa Smith, SRI, DHHR

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
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 March 4, 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 convened on February 1, 2005.

It should be noted here that the Defendant is a current recipient of Food Stamp 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:

Teresa Smith, SRI, DHHR

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

IV. QUESTION TO BE DECIDED:

The question is whether or not the Defendant committed an intentional program violation and should be disqualified for a specified period from participation in the Food Stamp Program.

V. APPLICABLE POLICY:

7 CFR ' 273.16 USDA Code of Federal Regulations

Common Chapters Manual Chapter 700 App A

West Virginia Income Maintenance Manual ' 1.2, 10.4, 20.2, 20.2 C & D

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

- DHS-1 Combined Application and Review Form completed on February 4, 2004.
- DHS-2 Case Comments from 10/22/03 – 8/23/04.
- DHS-3 E-mail correspondence from _____ to Teresa Smith dated 1/28/05.
- DHS-4 Food Stamp Claim Determination for period 2/4/04 thru 5/04.
- DHS-5 Notification of Intent to Disqualify.
- DHS-6 WVIMM Policy Manual Chapter 1.2, 1.4, 9.1, 20.2 & Common Chapters 700, Appendix A
- DHS-7 Notice of Decision dated 2/5/04, advising of Food Stamp benefit amount for February 2004.
- DHS-8 Notice of Decision dated 2/5/04, advising of Food Stamp benefit amount effective March 2004.

VII. FINDINGS OF FACT CONCLUSIONS OF LAW:

- (1) A request for an Administrative Disqualification Hearing was received by the Board of Review from State Repayment Investigator, Teresa Smith, on November 19, 2004. Ms. Smith contends that the Defendant has committed an Intentional Program Violation and is recommending that she be disqualified from participation in the Food Stamp Program for a period of one (1) year.
- (2) Notification of the February 1, 2005 hearing was mailed to the Defendant on December 22, 2004 via Certified, Restricted Delivery, mail. The Defendant=s signature appears on the return receipt dated 12/22/04.
- (3) The hearing convened as scheduled at 10:30 a.m., and as of 10:45 a.m., the Defendant failed to appear. As set forth in regulations [7 CFR 273.16 (e) (4)], and State Policy (700 of Common Chapters Manual Appendix A Part F), the hearing was conducted without the Defendant in attendance.
- (4) The Defendant was sent a Notification of Intent to Disqualify (DHS-5) on August 30, 2004 advising that the intentionally violated the Food Stamp Program by applying for and receiving benefits for persons not residing in the household. The Department submitted exhibits DHS-1 thru DHS-8 to support their claim.
- (5) The Defendant completed an application for Food Stamp benefits on February 4, 2004 (DHS-1). The application listed three (3) members in the benefit group – the Defendant, _____ and _____. On page 6 of the application, the Defendant answered “yes” when asked has this child (_____) lived continuously with his natural mother since birth. The Claimant’s signature also appears on page 8 of the Rights and Responsibilities section of the application certifying that the information is true and correct and the she accepts the responsibilities included in this section.
- (6) The Department submitted exhibits DHS-7 & DHS-8 to verify that the Defendant was notified of the amount of her Food Stamp benefits as well as who was included in the Assistance Group.
- (7) On August 6, 2004, _____ spoke to a Department Worker on the phone and reported that _____ was not in the home. (DHS-2)
- (8) On August 9, 2004, a Social Services Worker informed Economic Services that _____ has never lived with the Defendant. While neither party was present to testify about the information exchanged during this meeting, the Department submitted DHS-3, an e-mail correspondence from _____ to Teresa Smith dated 1/28/05, to confirm Social Services position. This correspondence includes the following statement:

I am the CPS Supervisor in Marshall County. At the request of _____, I am writing in regards to _____. We received legal custody of _____ on 7/3/03. _____ was placed into foster care on 7/14/03. He was in the hospital from the time of his birth 6/29/03 until his _____ placement in foster care and therefore

- never resided with his mother _____.
- (9) Department's exhibit DHS-2 reveals that the _____ was removed from the AG in May 2004 as the Defendant failed to verify his Social Security Number. This exhibit also shows that the Defendant contacted the Customer Service Center on 7/6/04 to inquire why _____ was removed from her Food Stamp case.
- (10) West Virginia Income Maintenance Manual ' 10.4:
This section contains policy relating income disregards and deductions and to computation of and eligibility for Food Stamp benefits. It also states: To determine the coupon allotment, find the countable income and the number in the benefit group.
- (11) West Virginia Income Maintenance Manual ' 1.2 (E):
The client's responsibility is to provide information about his circumstances so the worker is able to make a correct decision about his eligibility.
- (12) West Virginia Income Maintenance Manual ' 20.2:
When a AG (benefit group) has been issued more Food Stamps than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation or Intentional Program Violation claim. The claim is the difference between the allotment the client received and the allotment he should have received.
- (13) West Virginia Income Maintenance Manual ' 20.2 (C) (2):
Once an IPV (Intentional Program Violation) is established a disqualification penalty is imposed on the AG (assistance group) members who committed the IPV.
The penalties are as follows: (' 9.1, A, 2, g) 1st Offense: 1 year (Disqualification)
- (14) Common Chapters Manual 700, Appendix A, provides that an 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 Program Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt or possession of food stamp benefits.

VIII. DECISION:

Policy provides that an Intentional Program Violation (IPV) for purposes of the Food Stamp Program will include the making of false or misleading statements, misrepresentations or the concealment or withholding of facts in attempting to secure Food Stamp benefits.

The Defendant signed the Combined Application and Review Form on February 4, 2004 acknowledging the penalties for fraudulent or misleading acts and her responsibility in providing correct and truthful information. The Department, however, submitted clear and convincing evidence that the Defendant intentionally provided false and misleading information about her household situation when she included _____ in her Food Stamp assistance group. The fact that she received notification of the Food Stamp benefit amount and who was included in the assistance group and later contacted the Customer Service Center to inquire why _____ was removed from her Food Stamp benefits, clearly establishes intent.

The making of false or misleading statement or the misrepresentation of facts to secure food Stamp benefits constitutes a clear violation of the regulations. Based on evidence presented, I find the violation intentional.

The Agency=s proposal to apply a Food Stamp disqualification is **upheld**.

Only the Defendant is subject to this disqualification.

The 1-year sanction will be effective beginning May 2005.

IX. RIGHT OF APPEAL:

See Attachment

X. ATTACHMENTS:

The Defendant's Recourse to Hearing Decision

Form IG-BR-29