



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

March 9, 2005

_____ and _____

Dear Mr. & Mrs. _____:

Attached is a copy of the findings of fact and conclusions of law on your administrative disqualification hearing held March 1, 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 both made aware of your obligations to report complete and accurate information and that you each knowingly failed to do so.

It is the ruling of the State Hearing Officer that each of you has 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

NAME: _____ and _____

ADDRESS: _____

DATE: March 9, 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 March 1, 2005, in the case of _____ and _____.

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 March 1, 2005 on a request received from the DHHR Agency November 15, 2004.

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

_____, 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, _____ and or _____, 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.

_____ and _____

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VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED

Department Exhibits:

- DHS-1 Rights and Responsibilities signed by both 08/06/03
- DHS-2 Application and Rights & Responsibilities signed by both 02/05/04
- DHS-3 CHIP Medicaid application signed by Barbara 3/22/04
- DHS-4 School Clothing application signed by _____7/14/04
- DHS-5 Application, Rights & Responsibilities and Quality Questionnaire signed by _____07/30/04
- DHS-6 Case Comments from 11/12/03 thru 08/05/04
- DHS-7 Food Stamp Claim Determination
- DHS-8 Notice to each of Intent to Disqualify 10/20/04
- DHS-9 WV Income Maintenance Manual Section 1.2; 1.4; 9.1; 10.3; 20.2 and Appendix A
- DHS-10 LIEAP application 11/12/03 signed by Michael
- DHS-11 Emergency LIEAP application 02/06/04 signed by Michael
- DHS-12 Verification of Social Security income dated 09/29/04

VII. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. On August 6, 2003 _____ and _____ were made aware of their Responsibilities to report changes in their household circumstances as recipients of Food Stamp benefits.
2. In the month of November 2003 the household received a large lump sum payment from the Social Security Office to cover a backdated entitlement period of April 2002 thru November 2003. Regular Social Security checks began to be issued in December 2003 for _____ and for each of the other household members. _____'s monthly benefit was \$187. and each of the three children's benefits was \$187. _____'s monthly benefit was \$1464. This change in household income was not reported until February 2004.
3. On February 5, 2004 both _____ and _____ came in to the DHHR office to complete a review of their Food Stamp case. At this review, it was reported that _____ had been approved for Social Security Disability and his Social Security payment amount of \$1464. was revealed. There was no mention of the other Social Security checks that were being received. Again both Mr. and Mrs. _____ were made aware of their responsibility to report accurate and complete information. This Application and Rights & Responsibilities statements were signed by both applicants.
4. The following additional applications for benefits were completed with no reporting of any other Social Security income besides _____:
 - March 22, 2004 - CHIP Medicaid application signed by Barbara
 - July 14, 2004 - School Clothing application signed by Michael
 - July 30, 2004 - Food Stamp/Medicaid application review signed by Michael
 - November 12, 2003 Low Income Energy Assistance Program application signed by Michael
 - February 06, 2004 Low Income Energy Assistance Program application signed by Michael
5. A computer match provided information to the Agency that _____ and the three children were also receiving Social Security benefits and the additional income was coded into the case effective for September 2004 benefits. A referral was made to the Claims and Collection unit.
6. The Repayment Investigator while calculating an overpayment amount, uncovered the above entered documents which show the withholding of income information.

_____ and _____
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VII. Section Continued:

7. _____ has indicated that during the affected time period, he was not always thinking correctly due to some head trauma. _____ indicated that they believed the Children's Social Security checks would be for the children and would not count.
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.

VIII. DECISION

The evidence and testimony given at the Administrative Disqualification Hearing clearly shows that the defendants both were made aware of their responsibility to report accurate and complete information. It further shows that the defendants intentionally withheld information regarding household income. _____ independently signed numerous documents in which his wife and children's Social Security income was not included. _____ indicates that she believed that her children's income would not count. She however also withheld her own income on documents which she signed.

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

IX. RIGHT OF APPEAL

See Attachment.

_____ and _____
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X. ATTACHMENTS

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29.

