



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 West Washington Street
Charleston, West Virginia 25313

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

May 16, 2005

Attached is a copy of the findings of fact and conclusions of law on your administrative disqualification hearing held March 29, 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 9.1 (A)(2)(f) of the WV Income Maintenance Manual and 7 CFR Section 273.16).

The information submitted at the hearing revealed that: You failed to report correct Household Composition in a timely manner. This resulted in an over issuance of \$ 265.00 in Food Stamp Benefits. The overpayment period covers January 1, 2004 through July 31, 2004.

It is the decision of the State Hearing Officer, to uphold the Department's proposal, that you did commit an Intentional Program Violation. You will be sanctioned from the Food Stamp Program for a period of twelve (12) months. The sanction will be effective June 2005.

Sincerely,

Ray B. Woods, Jr., M.L.S.
State Hearing Officer
Member, State Board of Review

cc: State Board of Review
Jennifer Butcher, Repayment Investigator

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 May 16, 2005 for Ms. _____. This hearing as 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 fair hearing was convened on March 29, 2005 by request of the Department on February 17, 2005.

It should be noted here that Ms. ____'s household is currently receiving Food Stamp Benefits.

A pre-hearing conference was not held between the parties. Ms. ____ did not appear at the hearing.

Mrs. Butcher agreed to provide truthful information during the hearing

II. PROGRAM PURPOSE:

The Program entitled FOOD STAMPS is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & 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:

Jennifer Butcher, Repayment Investigator - Kanawha District DHHR Office

Presiding at the hearing was Ray B. Woods, Jr., M. L. S., State Hearing Officer and, a Member of the State Board of Review.

IV. QUESTIONS 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.

V. APPLICABLE POLICY:

Common Chapters Manual, Chapter 700, Appendix A, Section B and; WV Income Maintenance Manual Section 9.1 (A)(2)(f)

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department' Exhibits:

- D ADH Summary
- D-1 Application dated 06/09/03
- D-2 Case Comments dated 07/07/04
- D-3 Case Comments dated 07/21/03 – 02/25/04
- D-4 Case Comments dated 08/02/04 – 10/06/04
- D-5 Fax dated 02/02/05
- D-6 WVIMM Chapter 2.2 B REPORTING REQUIREMENTS
- D-7 Food Stamp Claim Determination
- D-8 IG-BR-30, 31 and 44

Defendant's Exhibits:

None

VII. FINDINGS OF FACT:

Mrs. Butcher submitted the following Administrative Disqualification Hearing Summary:

I. IDENTIFYING INFORMATION

WORKERS INVOLVED DURING PERIOD IN QUESTION:

Danny Fields and Katherine Matheny

II. CASE DATA

DATE OPENED: July 1998 DATE CLOSED: Currently active

OVERPAYMENT PERIOD: January 2004 thru July 2004

AMOUNT OF FOOD STAMPS OVER ISSUED: \$265.00

ELIGIBILITY FACTOR INVOLVED: daughter was out of home and living with father in another state.

III. SUMMARY OF FACTS

The Investigation Fraud Unit received a referral from the IM Unit. That ___ failed to report her daughter ___ had been living in Wood stock, Georgia since October 2003. Because of this unreported change in household an over issuance of Food stamps occurred for the period of January 2004 thru July 2004.

The West Virginia Department Health and Human Resources has requested this hearing be held for the purpose of determining that _____ committed an Intentional Program Violation (IPV). The Federal Register, Article 273.16c defines an IPV as (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 Program Regulations, or any state statute relating to the use, presentation, acquisition receipt, or possession of Food stamps coupons or ATP's.

EXB -1ES 2 Food Stamp, Check, and Medical Review dated 6/9/03 along with the Rights and Responsibilities (R&R), which she read or had read to her and signed agreeing to the statements and to report changes that occur in the household.

EXB -2 CMCC dated 7/7/04 worker received a DHS 1 from Child Support stating that ___ was living in Georgia with father and father had enrolled her in school . Father was asking for case to be closed so he could receive benefits in Georgia for her.

EXB-3 CMCC dated 7/21/03 to 2/25/04 as you can see no contact with client July 21, 2003 to February 25, 2004,

EXB 4 CMCC dated 8/2/04 ___ called to change center asking about cash benefits. Worker read to her comments of 7/7/04 of child being out of the home. ___ stated that she reported that daughter had stayed with father for three weeks when she had surgery. As the case comments show ___ did not report the change. If she did the case would have closed until child returned home.

EXB-5 On February 2, 2005 an IFM-5J verification letter of attendance was sent to __Elementary in Woodstock, Georgia. regarding the attendance of ____ . I received a fax back the same day showing that ___ was enrolled on 10/20/03 and was at the school for 130 days which would be till the end of the school year in May 2004.

IV. RIGHTS AND RESPONSIBILITIES: EVALUATION OF CLIENT'S UNDERSTANDING OF AGENCY POLICY AND RECOMMENDATION

_____ has received benefits from the Department for many years and she has completed many reviews during this time and at each review and application she has read or read to her the Rights and Responsibilities. She knew to report changes and to contact the department if she had problems with her case as she did when she stopped receiving the check in EXB -4.

EXB -6 Income Maintenance Manual Chapter 2.2B states Changes must be reported within 10 days of the date the change becomes known to the benefit group. Also She has read this each time she completed a review I agree to let the local Department of Health and Human Resources office know within 10 days if Anyone moves into/out of my household.

EXB -7 calculation sheet of what client received and what she should have received if changes were made.

I am requesting that a 12 month sanction be placed on _____ for the Intentional Program Violation and that she repay the Department the sum of \$ 265.00 for Food Stamps that were overissued to her during January 2004 thru July 2004.

VIII. 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.
2. According to policy at WV Income Maintenance Manual Section 9.1 (A)(2)(f) 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:

It is the decision of this State Hearing Officer that, _____ committed an Intentional Program Violation. Based on the information submitted at the hearing, Ms. _____ failed to report information that would affect her Food Stamp Benefits.

Mrs. ____ will be sanctioned from the Food Stamp Program for a period of twelve (12) months and, must repay \$ 265.00 in over issued Food Stamp Benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29