



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 27, 2005

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

[REDACTED]
Gilbert, WV 25621

Dear [REDACTED],

Attached is a copy of the findings of fact and conclusions of law on your administrative disqualification hearing held April 26, 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 your son, Brandon, was not living in your home causing an overissuance of Food Stamps in the amount of \$147 for the period of March, 2003 through May, 2003.

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 June, 2005.

Sincerely,

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

cc: Board of Review
Brian Shreve, Repayment Investigator

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES

NAME: [REDACTED]

ADDRESS: [REDACTED]
Gilbert, WV 25621

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 26, 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 April 27, 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 regular mail on March 11, 2005 notifying her of the date, time and location of the hearing and she had active Food Stamp, TANF, and Medicaid cases at the time of the scheduling of the hearing.

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. Brian Shreve, 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, 8.2, 9.1.
7 CFR 273.1, 273.16.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED

- Exhibit #A Copy of Federal Food Stamp regulations (6 pages).
- " #B Copy of benefit recovery referral 11-19-04 (2 pages).
- " #C Copy of Food Stamp claim determination (18 pages).
- " #D Copy of attendance verification from Logan Middle School 10-4-04 (3 pages).
- " #E Copy of combined application/review form 3-28-03 (22 pages).

- " #E1 Copy of case comments 3-31-03 (2 pages).
- " #F Copy of Food Stamp benefit members printout (3 pages).
- " #G Copy of manual section 1.2.
- " #H Copy of manual section 2.2 (2 pages).
- " #I Copy of manual section 20.2 (14 pages).
- " #J Copy of manual section 20.6.
- " #K Copy of letters to defendant (5 pages).

VII. FINDINGS OF FACT

1. Defendant made an application for Food Stamps, WV Works TANF check, and Medicaid on 3-28-03 and reported that her son, Brandon, was a member of the household and was approved for benefits which included Brandon (Exhibits #E and #E1).
2. In May, 2003, the defendant's case was referred to the Criminal Investigative Unit (CIU) due to the defendant failing to report that [REDACTED] was not living in her home as it was reported that he lived with his father in Logan County and the CIU verified that [REDACTED] had been enrolled and attending school in Logan County since August, 2002.
3. Defendant signed application/review form on 03/28/03 (Exhibit #E) acknowledging her understanding of the rights and responsibilities, including timely reporting, and her understanding of the penalties for Intentional Program Violation of the Food Stamp Program.
4. Verification received from Logan Middle School on 10-4-04 verified that [REDACTED] was enrolled in school on 8-26-02 (Exhibit #D).
5. Mr. Shreve testified that the referral originally included the period of October 2002 through December, 2002 but that he decided not to pursue that period since there was no evidence of a false statement for that period.
6. Mr. Shreve testified that the defendant intentionally withheld or concealed information that her son ([REDACTED]) was living with his father in Logan County and that the defendant reported that Brandon was living with her during the interview on 3-28-03 causing an overissuance in the amount of \$147 for the period of March, 2003 through May, 2003 (Exhibit #C) and Mr. Shreve requested a one-year disqualification period be imposed on the Food Stamp Program 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 \$147 for the period of March, 2003 through May, 2003 (Exhibit #C) as she reported false information on 3-28-03 regarding her son's residence.

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. [REDACTED] committed an Intentional Program Violation of the Food Stamp Program. Ms. [REDACTED] will be disqualified from participation in the Food Stamp Program for a period of one (1) year beginning June, 2005.

IX. RIGHT OF APPEAL

See Attachment.

X. ATTACHMENTS

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29.