



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

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

June 25, 2007

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law regarding your Food Stamp Administrative Disqualification Hearing held June 19, 2007 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.

Eligibility for the Food Stamp program is based on current policy and regulations. Some of these regulations state as follows: 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 reveals that you intentionally provided false and misleading information about your living arrangements/income deductions in order to receive Food Stamp benefits for which you were not entitled.

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 effective August 1, 2007.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Sally Musick, SRI, DHHR

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
BOARD OF REVIEW**

_____,

Defendant,

v.

Action Number: 07-BOR-1060

**West Virginia Department of
Health and Human Resources,**

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from an Administrative Disqualification Hearing concluded on June 25, 2007 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 June 19, 2007.

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 EBT benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

III. PARTICIPANTS:

_____, Defendant
Sally Musick, State Repayment Investigator, DHHR
Lori Williams, ESW, DHHR

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

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether 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, Appendix A
West Virginia Income Maintenance Manual ' 1.2, 1.4, 9.1, 10.3, 10.4 & 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

DHS-1 ES-FS-5 (Food Stamp Claim Determination) dated 6/14/06
DHS-2 Case Comments dated 3/8/06
DHS-3 CAF dated 6/6/06 and Case Comments dated 6/6/06
DHS-4 Case Comments dated 6/7/06 & 5/15/06
DHS-5 DFA-RR-1's dated 6/17/05 and 5/15/06
DHS-6 DFA-RR-1 dated 6/6/06
DHS-7 Income Maintenance Manual Sections 1.2 and 2.2
DHS-8 IG-BR-44a and IG-BR-44 dated 6/14/06
DHS-9 Income Maintenance Manual Sections 9.1 and 20.2

VII. FINDINGS OF FACT:

- 1) A request for an Administrative Disqualification Hearing was received by the Board of Review from State Repayment Investigator, Sally Musick on April 3, 2007. Ms. Musick 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) On or about June 14, 2006, the Defendant was notified via a Notification of Intent to Disqualify (Exhibit DHS-8), that the Department had reason to believe she intentionally violated the Food Stamp Program when she intentionally reported a false address and monthly rental obligation (income deduction) to the Customer Service Center in March 2006 and again during her Food Stamp application on June 6, 2006.
- 3) The Department submitted Exhibit DHS-2 (Case Comments dated 3/8/06) from the Customer Service Center (CSC). These comments state – "Address change entered as reported by _____ by phone. _____ reported that she currently lives w/her daughter, _____. _____ reported that she & _____ purchase & prepare food separately & that this address is 'temporary' until _____ can move into her own place. _____ reported that she is currently paying rent of \$450 per month & that her only utility expense is for her cell phone.

- 4) Case Comments found in Exhibit DHS-4 reveals that the DFA-RR1 (Rights and Responsibilities) identified as Exhibit DHS-5 were completed when that Defendant came to the Department to complete an application for Emergency Assistance (EA) payment of rent. According to Case Comments dated 5/15/07, the Defendant withdrew her application upon being advised of the eligibility requirements.
- 5) The Defendant's Food Stamp benefits were closed effective May 31, 2006 for failing to appear for her periodic review, however, the Defendant reapplied for Food Stamp benefits on June 6, 2006. Exhibit DHS-3 [Combined Application and Review Form (CAF)] reveals that the Defendant reported that she was still residing with her daughter and page 9 indicates she reported paying _____ \$450 rent per month. This information is also supported by documentation found in Case Comments (Exhibit DHS-4) dated 6/6/06.
- 6) On June 7, 2006, the Defendant appeared in the _____ County Department office. The following entry was made by Lori Williams in case comments (Exhibit DHS-4). "_____ in on this date to clarify things. She stated to me that she lied to me when she was in to apply for FS and she lied when she called the CSC back in 3/06. She is not and has not lived with her daughter _____ and she stated to me that she was too embarrassed to admit she was homeless. She has no physical address and is not paying and has not paid rent anywhere."
- 7) The Department submitted Exhibit DHS-1, Food Stamp Claim Determination, to show that by providing false and misleading information about her residential address / monthly rent obligation, the Defendant received \$82 in Food Stamp benefits for which she was not eligible.
- 8) The Department cited the Rights and Responsibilities form (included in Exhibit DHS-6) that was completed and signed by the Defendant on the day of application (June 6, 2006). The Defendant marked "yes" to item #4 which states:

I understand if I am found (by court action or an administrative disqualification hearing) to have committed an act of intentional program violation, I will not received Food Stamp benefits as follows: First Offense – one year; Second Offense – two years; Third Offense- permanently. In addition, I will have to repay any benefits received for which I was not eligible.

By signing the DFA-RR-1, the Defendant certified that she read, understood, and accepted the rights and responsibilities and that all of the information he provided was true and correct.

- 8) The Defendant testified that she cannot remember any of what the Department stated. She stated that she did live with _____ for a short period but that she was homeless during this period. She purported that she does not remember contacting the Department and acknowledging that she had been untruthful.
- 9) Lori Williams testified that she is the Worker who took the Defendant's June 2006 application and was subsequently contacted on June 7, 2006 to advise she had been untruthful about her living arrangement as well as the amount of rent she pays monthly.

- 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 {emphasis added} 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 (assistance 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, h) 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. CONCLUSIONS OF LAW:

- 1) The policy and regulations that govern the Food Stamp program state that a Food Stamp Program Violation has occurred when an individual intentionally [emphasis added] makes a false or misleading statement, or misrepresented, concealed or withheld facts relating to the use, presentation, transfer, acquisition, receipt or possession of Food Stamp benefits.
- 2) The evidence reveals that on March 8, 2006, the Defendant provided false and misleading information about her living arrangement and monthly rental obligation. While the Defendant purported that she does not recall acknowledging that she “lied” on June 7, 2006, “intent” has been verified by the Defendant’s interest in receiving EA benefits for rent in May 2006 and again when she reported a monthly rental obligation of \$450 during the June 6, 2006 application for Food Stamp benefits. This clearly establishes intent.
- 3) There is clear and convincing evidence that the Defendant intentionally committed an intentional program violation as defined in the Food Stamp policy and regulations.
- 4) In accordance with Food Stamp policy and regulations, an Intentional Program Violation has been committed and a disqualification penalty must be applied. The disqualification for a first time offense is twelve months (one year).

- 5) Only the Defendant is subject to this disqualification. The 1-year disqualification will begin effective August 1, 2007.

IX. DECISION:

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

The Agency's proposal to apply a Food Stamp disqualification is **upheld**. The Disqualification period will begin effective August 1, 2007.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 25th Day of June, 2007.

**Thomas E. Arnett
State Hearing Officer**