



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
Post Office Box 1736
Romney, WV 26757

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

August 15, 2007

Dear Mr. _____,

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 2, 2007. The hearing request was based on the Department of Health and Human Resources' claim that you have committed an intentional program violation.

In arriving at a decision, the State Hearings 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: 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 did conclude that you committed an intentional program violation by providing fraudulent participant time sheets in order to continue receiving Food Stamps.

It is the decision of the State Hearings Officer to **uphold** the proposed action of the Department to apply a Food Stamp Sanction to your case for an intentional program violation.

Sincerely,

Sharon K. Yoho
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Teresa Smith, Repayment Investigator

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

_____,

Defendant,

v.

Action Number: 07-BOR-1551

**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 a hearing concluded on August 2, 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 Administrative Disqualification hearing was convened on August 2, 2007 on a request, filed by the Agency on June 11, 2007. After proper notice of the hearing date and time, the defendant failed to appear.

It should be noted here that any adverse action of the agency has been postponed pending a hearing decision.

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 stamp benefits 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, Repayment Investigator

Presiding at the Hearing was Sharon K. Yoho, 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 has committed an act of intentional program violation.

V. APPLICABLE POLICY:

Common Chapters Manual, Chapter 700, Appendix A, Section B
West Virginia Maintenance Manual Section 1.2; 1.4; 9.1; 13.6; and 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Food Stamp Application dated November 14, 2006
- D-2 Personal Responsibility Contract dated December 27, 2006
- D-3 Time Sheets for volunteer work at animal shelter November thru March
- D-4 Repayment claim established for January thru April
- D-5 Notification of Intent to Disqualify dated May 10, 2007
- D-6 WV Income Maintenance Policy 1.2
WV Income Maintenance Policy 1.4
WV Income Maintenance Policy 9.1
WV Income Maintenance Policy 13.4
WV Income Maintenance Policy 20.1
WV Income Maintenance Policy 25.2
Common Chapters Manual, 700, Appendix A, Section B

VII. FINDINGS OF FACT:

- 1) The defendant was in the [REDACTED] County DHHR office on November 14, 2006 to complete a review of his Food Stamps. Food Stamps were being received for him and one other budget group member who was disabled. At the time of this review, the defendant was cooperating with the Food Stamp Employment and Training (FSE&T) requirements. He updated his FSE&T personal responsibility contract (PRC) and agreed to do volunteer work at the Preston County Animal Shelter.
- 2) On December 27, 2006, the defendant updated his PRC agreeing to continue participation at the Animal Shelter.

- 3) The defendant provided participant time sheets to the FSE&T worker on November 29, 2006 for November participation, on December 27, 2006 for December participation, on January 31, 2007 for January participation, February 28, 2007 for February participation and on March 28, 2007 for March participation. All of these time sheets had a signature at the bottom of [REDACTED] Supervisor at the Animal Shelter.
- 4) In April 2007, the caseworker contacted [REDACTED] at the Animal Shelter who advised that the defendant had not been back to the shelter since before Thanksgiving in November. She told the worker that she had not signed any sheets for December, January, February or March.
- 5) **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.
- 6) **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.
- 7) **WV Income Maintenance Manual Policy § 20.2 states:** Intentional Program Violations include making false or misleading statements, misrepresentations, concealing or withholding information.
- 8) **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.
- 9) **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.
- 10) **According to policy in WV Income Maintenance Manual Section 13.6, A** Food Stamp penalty is imposed when the individuals listed below do not comply with a work requirement and do not have good cause.

A non-WV Works recipient who does not comply with the Food Stamp work requirements is subject to the following penalties for at least the minimum penalty period or until he reports a change, which makes him exempt from work requirements.

First violation: The individual is removed from the AG for at least 3 months or until he meets an exemption, whichever is less. If after 3 months, the individual has not complied or met an exemption, the penalty continues until the failure or refusal stops, or until the individual reports a change that makes him exempt.

VIII. CONCLUSIONS OF LAW:

- 1) Policy 20.2 is clear that the intentional providing of false information for the purposes of receiving benefits is considered a violation of the Food Stamp program.
- 2) Policy 1.4 and 9.1 stipulates that if an intentional program violation has been committed, a disqualification penalty must be applied. The disqualification for a first time offense is twelve months.
- 3) The defendant did have an obligation to abide by the FSE&T requirements. He failed to do so and provided fraudulent documents to make it appear that he had been cooperating with requirements.
- 4) Evidence and testimony is clear and convincing that the defendant intentionally provided false information in order to obtain Food Stamp benefits.

IX. DECISION:

It is the finding of this Hearing Officer that the defendant did commit an intentional program violation by providing fraudulent information. It is the ruling of this Hearing Officer to **uphold** the Department's proposed action to impose a twelve month sanction for an IPV. This sanction is to go into affect September 1, 2007. This decision does not address the issue of the overpayment amount or claim months. The appeal rights for this issue would be separate.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 15th Day of August 2007.

**Sharon K. Yoho
State Hearing Officer**