



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
January 6, 2005

Bob Wise
Governor

Paul L. Nusbaum
Secretary

Dear _____,

Attached is a copy of the findings of fact and conclusions of law on your administrative disqualification hearing held January 4, 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 both committed an intentional program violation of the Food Stamp Program by failing to report receiving housing assistance from HUD in a timely manner despite numerous opportunities to do so causing an overissuance of Food Stamps in the amount of \$1376 for the period of May, 2003 through August, 2004.

It is the ruling of the State Hearing Officer that you both committed an Intentional Program Violation of the Food Stamp Program and you will both be individually disqualified from participation in the Food Stamp Program for a period of one (1) year beginning February, 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: _____

ADDRESS: _____

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 January 4, 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 January 4, 2005. It should be noted that the defendants did not attend the hearing but the hearing was convened in their absence as they had active Food Stamp and Medicaid cases at the time the hearing was scheduled and they were notified by regular mail on November 18, 2004 of the date, time, and location 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 defendants, _____, 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, 10.3, 10.4, 20.2.
7 CFR 273.9, 273.10, 273.16.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED

- Exhibit #A Copy of Federal Food Stamp regulations (10 pages).
- " #B Copy of benefit recovery referral 7-27-04.
- " #C Copy of Food Stamp claim determination (23 pages).
- " #D Copy of case comments 7-27-04 (2 pages).
- " #E Copy of Housing Assistance payments verification (3 pages).

- " #F Copy of combined application/review form 9-2-03 (13 pages).
- " #F1 Copy of case comments 9-2-03.
- " #G Copy of LIEAP application 12-5-03 (2 pages).
- " #G1 Copy of case comments 12-4-03.
- " #H Copy of LIEAP application 12-4-03 (2 pages).
- " #H1 Copy of case comments 2-6-04, 2-18-04, & 3-30-04.
- " #I Copy of School Clothing Allowance Program application 6-29-04 (2 pages).
- " #I1 Copy of case comments 7-14-04 and 7-27-04.
- " #J Copy of combined application/review form 9-14-00 (19 pages).
- " #K Copy of manual section 1.2.
- " #L Copy of manual section 2.2 (2 pages).
- " #M Copy of manual section 20.2 (6 pages).
- " #N Copy of manual section 20.6.
- " #O Copy of letters to _____ (4 pages).
- " #P Copy of letters to _____ (4 pages).

VII. FINDINGS OF FACT

1. Defendants were receiving Food Stamps when an application for the WV Works Program and Food Stamp review were completed on 7-27-04 and it was discovered that defendants were approved for HUD housing assistance two (2) years ago and a referral for repayment was made to the Investigations & Fraud Management Unit (IFM) (Exhibit #B & #D).

2. Defendants signed application/review forms on 9-02-03 (Exhibit #F) and 9-14-00 (Exhibit #J) acknowledging their understanding of the rights and responsibilities, including timely reporting, and their understanding of the penalties for Intentional Program Violation of the Food Stamp Program.

3. Verification received from Housing Authority of Mingo County showed that the defendants started receiving HUD housing assistance payments of \$309 on 4-1-03 which changed to \$395 on 11-1-03 and \$392 on 4-1-04 (Exhibit #E).

4. Mrs. _____ had opportunities to report the HUD housing assistance on 9-2-03 during a Food Stamp review (Exhibits #F & F1), when she submitted a LIEAP Program application on 12-4-03 (Exhibit #H), when she was in the local office on 2-6-04 to apply for the Emergency LIEAP Program (Exhibit #H1), when she was in the local office on 3-30-04 to report employment (Exhibit #H1), and when she submitted an application for the School Clothing Allowance Program (SCA) on 6-29-04 (Exhibits #I and #I1) and she failed to report the HUD housing assistance during any of those contacts.

5. Mr. _____ had opportunities to report the HUD housing assistance when he submitted a LIEAP Program application on 12-5-03 (Exhibits #G & #G1) and when he was in the local office on 3-30-04 to report employment of Mrs. Davis (Exhibit #H1).

6. Mr. Shreve testified that the defendants intentionally withheld or concealed information related to receipt of HUD housing assistance which started in April, 2003 and continued until it was discovered on July 27, 2004 causing a Food Stamp overissuance in the amount of \$1376 for the period of May, 2003 through August, 2004 (Exhibit #C) and requested a one-year disqualification period be imposed due to Intentional Program Violation.

7. Defendants committed an Intentional Program Violation of the Food Stamp Program which caused an overissuance of \$1376 for the period of May, 2003 through August, 2004 (Exhibit #C).

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 _____ committed an Intentional Program Violation of the Food Stamp Program. The evidence shows that _____ started receiving HUD housing assistance in April, 2003 but failed to report the housing assistance on numerous occasions when they had opportunities to do so. _____ received the HUD housing assistance from April, 2003 through July, 2004 before the Department became aware of the housing assistance despite many contacts with _____ which are documented in Findings of Facts #5 and #6 in Section VII of this hearing summary. Since _____ had numerous opportunities to report the HUD housing assistance and failed to do so, it is the decision of the State Hearing Officer that the failure to report the HUD housing assistance was intentional on the part of _____ and that they both committed an Intentional Program Violation of the Food Stamp Program. Therefore, it is the decision of the State Hearing Officer that _____ committed an Intentional Program Violation of the Food Stamp Program and both will be individually disqualified from participation in the Food Stamp Program for a period of one (1) year beginning February, 2005.

IX. RIGHT OF APPEAL

See Attachment.

X. ATTACHMENTS

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29.