



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 5, 2005

Bob Wise
Governor

Paul L. Nusbaum
Secretary

Dear Ms. _____,

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 committed an intentional program violation of the Food Stamp Program by failing to report employment and earned income at Bob Evans in a timely manner during an office interview on May 7, 2004 causing an overissuance of Food Stamps in the amount of \$194 for the period of June through July, 2004.

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 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 defendant did not attend the hearing but the hearing was convened in her absence as she had active Medicaid case at the time the hearing was scheduled and she was 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 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, 10.3, 10.4, 20.2.
7 CFR 273.9, 273.16.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED

Exhibit #A Copy of Federal Food Stamp regulations (10 pages).
" #B Copy of benefit recovery referral 7-28-04.
" #C Copy of Food Stamp claim determination (12 pages).

- " #D Copy of combined application/review form 5-7-04 (13 pages).
- " #D1 Copy of case comments 5-7-04
- " #E Copy of case comments 7-9-04 & 7-27-04 (2 pages).
- " #F Copy of employment verification from Bob Evans (5 pages).
- " #G Copy of manual section 1.2.
- " #H Copy of manual section 2.2 (2 pages).
- " #I Copy of manual section 20.2 (6 pages).
- " #J Copy of manual section 20.6.
- " #K Copy of letters to defendant (4 pages).

VII. FINDINGS OF FACT

1. Defendant was in the local office on 5-7-04 to apply for Food Stamps and reported no income but that she may start a new job and was approved for Food Stamps (Exhibit #D & #D1).
2. In July, 2004, the WV Works Supervisor received information that the defendant was working and gave the information to the Income Maintenance Unit and the case was referred to Investigations & Fraud Management Unit on 7-28-04 (Exhibits #B and #E) and the Repayment Investigator (Mr. Shreve) verified that the customer was hired and started work at Bob Evans on 4-29-04 (Exhibit #F).
3. Defendant signed an application/review form on 5-7-04 (Exhibit #D) acknowledging her understanding of the rights and responsibilities including reporting changes in a timely manner and the penalties for Intentional Program Violation.
4. Defendant was employed when she was interviewed on 5-7-04 and reported only that she may be starting a new job and the defendant withheld the fact that she was already employed and failed to report at any time after the interview that she was employed at Bob Evans.
5. Mr. Shreve testified that the defendant intentionally withheld or concealed information related to her employment at Bob Evans causing an overissuance in the amount of \$194 for the period of June through July, 2004 (Exhibit #C) and requested a one-year disqualification period be imposed due to Intentional Program Violation.
6. Defendant committed an Intentional Program Violation of the Food Stamp Program which caused an overissuance of \$194 for the period of June through July, 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 Ms. _____ committed an Intentional Program Violation of the Food Stamp Program. The evidence shows that Ms. _____ began employment at Bob Evans on 4-29-04 but reported during an interview on 5-7-04 that she was not working and may be starting a new job. Ms. _____ concealed the fact that she was already employed during the Food Stamp application interview on 5-7-04 which shows intent on her part and that she committed an Intentional Program Violation of the Food Stamp Program. Therefore, it is the decision of the State Hearing Officer that Ms. _____ committed an Intentional Program Violation of the Food Stamp Program and she 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.