



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 from Lowe's in a timely manner and failing to report the correct starting date of your employment at Lowe's causing an overissuance of Food Stamps in the amount of \$1676 for the period of May, 2004 through September, 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 Food Stamp and Medicaid cases 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 8-9-04.
- " #C Copy of Food Stamp claim determination (11 pages).
- " #D Copy of case comments 8-9-04.
- " #E Copy of earned income from Lowe's (5 pages).

- " #F Copy of case comments 3-25-04.
- " #F1 Copy of combined application/review form 8-19-04 (16 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 receiving Food Stamps when she called to report on 8-9-04 that she had started to work at Lowe's on 6-18-04 and a referral for repayment was made to the Investigations & Fraud Management Unit (IFM) (Exhibit #B & #D).
2. Defendant signed application/review form on 8-19-02 (Exhibit #F1) 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.
3. Verification received from Lowe's Companies, Inc. through The Work Number on 10-13-04 showed that the defendant began employment on 3-18-04 instead of 6-18-04 as she had reported (Exhibit #E).
4. Case comments showed defendant called the local office on 3-25-04 (after she had begun work) regarding her Food Stamp amount but failed to report that she had begun employment at Lowe's on 3-18-04 (Exhibit #F).
5. Mr. Shreve testified that the defendant intentionally withheld or concealed information related to her starting date of employment at Lowe's causing an overissuance in the amount of \$1676 for the period of May through September, 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 \$1676 for the period of May through September, 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 Lowe's Companies, Inc. on 3-18-04 but reported on 8-9-04 that she had begun employment on 6-18-04. Ms. _____ failed to report the employment in a timely manner and also misreported her starting date of employment. Ms. _____ contacted the local office by phone on 3-25-04 (one week after beginning employment at Lowe's) and failed to report that she was employed at Lowe's. The fact that Ms. _____ had the opportunity to report her employment during the phone call on 3-25-04 and the fact that she misreported the date she began employment on 8-9-04 show that she concealed correct information about her employment at Lowe's 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.