



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 West Washington Street
Charleston, West Virginia 25313

Joe Manchin III
Governor

Secretary

February 14, 2005

Dear Ms. _____;

Attached is a copy of the findings of fact and conclusions of law on your administrative disqualification hearing held November 30, 2004.

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 9.1 (A)(2)(f) of the WV Income Maintenance Manual and 7 CFR Section 273.16).

The information submitted at the hearing revealed that: You failed to report moving to the State of Indiana and continued receiving Food Stamp Benefits in the State of West Virginia. This resulted in an over issuance of \$ 456.00 in Food Stamp Benefits. The overpayment period covers October 2003 through May 2004.

It is the decision of the State Hearing Officer, to uphold the Department's proposal, that you did commit an Intentional Program Violation. You will be sanctioned from the Food Stamp Program for a period of twelve (12) months. The sanction will be effective April 2005.

Sincerely,

Ray B. Woods, Jr., M.L.S.
State Hearing Officer
Member, State Board of Review

cc: State Board of Review
Bennie Cogar, Criminal 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 February 14, 2005.

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 originally convened on November 30, 2004, on a timely appeal filed by the Department on October 4, 2004.

It should be noted here that, the defendant was not a current recipient of Food Stamp Program Benefits.

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

Bennie Cogar, Criminal Investigator

Presiding at the hearing was, Ray B. Woods, Jr., M. L. S., State Hearing Officer and a member of the State Board of Review.

IV. 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.

V. APPLICABLE POLICY

Common Chapters Manual, Chapter 700, Appendix A, Section B and; WV Income Maintenance Manual Section 9.1 (A)(2)(f)

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED

- D-1 Combined Application and Review Form dated 07/15/02 with Rights and Responsibilities
- D-2 Food Stamp Replacement Request dated 01/21/03
- D-3 WV EBT Balance Inquiry and Detail Journal Inquiry Screen Printouts
- D-4 Fax from Lake County Division of Family and Children, Crown Point Indiana
- D-5 WV State Online Query SSI Information Response
- D-6 IG-BR-44 & 44A
- D-7 Food Stamp Claim Determination
- D-8 IG-BR-30; IG-BR-31 & IG-BR-44
- D-9 GroupWise Message from Mr. Cogar to Mr. Woods re: Appearance

VII. FINDINGS OF FACT

- The State is alleging that between the months of September 2003 through June 2004, _____ was receiving Food Stamp Benefits from the West Virginia Department of Health and Human Resources, while residing in the State of Indiana.
- Ms. _____ was ineligible for the Food Stamp Benefits since she was not a resident of the State of West Virginia. The State of West is pursuing an Intentional Program Violation based upon this fact.
- The Application (Exhibit D-1), dated July 15, 2002, lists Ms. _____'s address as _____.
- On January 21, 2003, Ms. _____ requested a Replacement of Food Stamps (Exhibit D-2). The address was listed as _____.
- The West Virginia Electronic Benefit Transfer Production System Printout (Exhibit D-3), shows the EBT Card was used between the months of September 2003 through June 2004. The EBT Card shows it was used in stores in Indiana and not West Virginia. The address listed in the system is _____.
- The WV DHHR received a fax from The Lake County Division of Family and Children, Crown Point Indiana Office in Indiana on March 25, 2004 (Exhibit D-4). The letter stated,

Ms. _____ has applied for public assistance in the State of Indiana
On 9/5/03. Could you verify any assistance received in your state from
September 2003 to present. Your cooperation is appreciated.

- On July 14, 2004, _____'s name and social security number were entered into the WV State Online Query SSI Information Response (Exhibit D-5). It listed Ms. _____'s address as _____.
- A Notification of Intent to Disqualify Letter and Waiver of Administrative Disqualification Hearing was sent to Ms. _____ on July 16, 2004, by Ms. Rhonda McKown (Exhibit D-6). The Waiver of Administrative Disqualification Hearing was not signed or returned. The address on the letters was _____.
- The Food Stamp Claim Determination (Exhibit D-7), indicates Ms. _____ was not eligible to receive Food Stamp Benefits in the amount of \$456.00 between the months of October 2003 through May 2004.
- The Scheduling Notice was mailed to Ms. _____ on October 5, 2004 via Certified Mail (Exhibit D-8). The address on the Notice was _____. The Certified Mail was signed by _____ and returned October 27, 2004.
- Ms. _____ did not appear at the Administrative Disqualification Hearing.

VIII. 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.
2. According to policy at WV Income Maintenance Manual Section 9.1 (A)(2)(f) 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.

IX. DECISION

It is the decision of this State Hearing Officer that, _____ committed an Intentional Program Violation. Based on the information submitted at the hearing, Ms. _____ failed to report information that would affect her Food Stamp Benefits.

Ms. _____ will be sanctioned from the Food Stamp Program for a period of twelve (12) months and, must repay \$476.00 in over issued Food Stamp Benefits.

X. RIGHT OF APPEAL

See Attachment.

XI. ATTACHMENTS

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29