



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Joe Manchin III
Governor

Office of Inspector General
Board of Review
PO Box 29
Grafton WV 26354
October 26, 2006

Martha Yeager Walker
Secretary

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your Administrative Disqualification Hearing held October 18, 2006.

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.

Intentional Program Violations 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 Program Regulations, or any State statute relating to the use presentation, transfer, acquisition, receipt or possession of Food Stamp coupons. Individuals found to have committed an act of Intentional Program Violation will be ineligible for a specified time determined by the number of previous Intentional Program Violation disqualifications. The hearing authority shall base the determination of Intentional Program Violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, an intentional Program violation (West Virginia Income Maintenance Manual § 20.2 and Code of Federal Regulations- 7 CFR § 273.16)

The information submitted at the hearing established that you committed an Intentional Program Violation by failing to report the correct number of persons in the household during the period July 2005- December 2005.

It is the decision of the State Hearing Examiner that an Intentional Program Violation was committed and a 1 year disqualification penalty is to be applied. This disqualification will begin December 1, 2006.

Sincerely,

Ron Anglin
State Hearing Examiner
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES

_____,
Defendant,

v.

Action Number 06-BOR- 2294

**West Virginia Department of Health and Human Resources,
Respondent.**

SUMMARY AND DECISION OF THE STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Examiner resulting from an Administrative Disqualification hearing concluded on October 25, 2006 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 convened on October 18, 2006.

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:

Leonard Madia, Investigator, DHHR

Presiding at the hearing was Ron Anglin, State Hearing Examiner and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question is whether the defendant committed an Intentional Program Violation (IPV) and should be disqualified for a specified period from participation in the Food Stamp Program.

V. APPLICABLE POLICY:

7 CFR § 273.16 USDA Code of Federal Regulations
Common Chapters Manual Chapter 700 Appendix A
West Virginia Income Maintenance Manual § 1.2, 9.1, 10.3, 10.4, 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

D-1 - Statement, 8/4/05- _____.
D-2 - BCSE Data, 6/2005
D-3 - Combined Application and Review Form, 7/7/05
D-4 - Food Stamp Claim Determination, 7/2005- 12/2005
D-5 - WVIMM 1.2, 9.1, 20.2

VII. FINDINGS OF FACT:

1) An Administrative Disqualification Hearing was requested by the agency, June 19, 2006. Notification of the October 18, 2006 hearing was mailed to defendant July 17, 2006. Notification was sent by first class mail as the agency indicated there was an active benefit case in the home. The hearing was convened as scheduled with the defendant failing to appear. As set forth in policy and contained in the hearing notification, the hearing was conducted with a decision to be issued based solely on information presented by the agency.

2) During the hearing Exhibits as noted in Section VI above were submitted.

3) Testimony was heard from the agency's investigator who was placed under oath.

4) Testimony on behalf of the agency reveals that the defendant applied for food stamps and a school clothing allowance 7/7/05. FS case was approved for herself and 2 children and the SCA case was approved for the 2 children- _____ and _____.

5) Exhibit D-3, Combined Application and Review Form, 7/7/05 was completed and signed by defendant. The consequences in failing to report accurate information were acknowledged. A household of 3 was reported- the defendant and 2 children- _____ - and _____.

- 6) Exhibit D-1, consists of a statement signed by _____ 8/4/06 indicating that _____ and _____ began living with him 4/26/05 and continue to live with him.
- 7) Exhibit D-2 from Bureau of Child Support Enforcement records reveals that a change in custody from the defendant to _____ occurred June 2005.
- 8) Exhibit D-4 reveals that an overissuance of Food Stamp benefits occurred during the period 7/2005- 12/2005 totaling \$1424. The defendant received a total of \$2297 in benefits for 3 persons and was entitled to only \$873- the allotment for 1 person.
- 9) West Virginia Income Maintenance Manual § 1.2 (E) & (D):
The client's responsibility is to provide information about his circumstances so the worker is able to make a correct decision about his eligibility.
The Agency's responsibilities include: inform the client of his responsibilities, the process involved in establishing his eligibility...
- 10) West Virginia Income Maintenance Manual § 10.4, C:
This section contains policy relating income disregards and deductions and computation of and eligibility for Food Stamp benefits. It also states: To determine the coupon allotment, find the countable income and number (of persons) in the benefit group.
- 11) West Virginia Income Maintenance Manual § 20.2:
When an AG has been issued more Food Stamps than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation or Intentional Program Violation claim. The claim is the difference between the allotment of the AG and the coupon allotment the AG was entitled to receive.
- 12) West Virginia Income Maintenance Manual § 20.2 (C) (2):
Once an IPV (Intentional Program Violation) is established a disqualification penalty is imposed on the AG (assistance group) member(s) who committed the IPV.
- 13) West Virginia Income Maintenance Manual § 20.2 (C) (2):
IPV's (Intentional Program Violations) include making false or misleading statements, misrepresentations, the concealment or withholding of facts and committing any act that violates the Food Stamp Act of 1977, Food Stamp Regulations or any State statute relating to the use, presentation, transfer, acquisition, receipt, or possession of Food Stamps.
- 14) 7 CFR § 273.16 (e) (6) Code of Federal Regulations:
The hearing authority shall base the determination of Intentional Program Violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, an intentional Program violation.

VIII. CONCLUSIONS OF LAW:

1) Policy directs that the applicant has a responsibility to supply correct and accurate information in order that an accurate determination of benefit eligibility can be made. Evidence reveals that the defendant failed to properly report the correct number of person in her home at the time of her 7/7/05 application. She had certified that information provided at that application was true and complete by her signature. A statement from the children's father indicates that as of 7/7/05 the children, reported as living in the defendant's home, were actually living with him. BCSE records reveal a custody change from the defendant to the children's father 6/2005.

2) Policy provides that to determine the correct Food Stamp coupon allotment the countable income and number of persons in the benefit group must be determined. Evidence reveals the defendant misrepresented the number of persons in her household resulting in an overissuance of benefits.

3) When an individual has been issued more Food Stamps than he was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation or Intentional Program Violation claim. The claim is the difference between the allotment the individual received and the coupon allotment he was entitled to receive. Evidence reveals that an overissuance of Food Stamp benefits occurred during the period July 2005 thru December 2005 as a result of the defendant's failure to report the correct number of persons in the home.

4) Intentional Violations include making false or misleading statements, misrepresentations, concealing or withholding of facts or committing any act that violates the Food Stamp Act of 1977. Evidence reveals that the defendant made a false statement and misrepresented the number of persons in her home.

5) The hearing authority shall base the determination of Intentional Program Violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, an intentional Program violation. Evidence supports a finding that the defendant's misrepresentation of information was clearly intentional. The agency provided evidence of an endorsed (signed), false statement made by the defendant at the 7/7/05 application. The defendant had acknowledged her responsibilities and the resulting penalties if she failed to provide accurate information. The defendant's conduct resulted in an overissuance of benefits and is clearly a violation of the act.

IX. DECISION/DISCUSSION:

Based on evidence presented, I can only conclude that the defendant intentionally

misrepresented her living situation (# of persons in the home) to receive additional benefits. She was clearly informed of her responsibilities and falsely reported the presence of 2 persons who were not household members. Based on evidence presented, the defendant's intent was clear and the violation intentional. The Agency's request for a one (1) year disqualification is upheld.

Only the defendant is subject to this disqualification.

This disqualification will begin December 1, 2006

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED This 26th Day of October, 2006

RON ANGLIN
State Hearing Examiner