



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
Post Office Box 1736
Romney, WV 26757

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

December 12, 2006

Dear Ms. _____,

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 29, 2006. Your hearing request was based on the Department of Health and Human Resources' claim that you have committed an intentional program violation.

In arriving at a decision, the State Hearings 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.

Eligibility for the Food Stamp program is based on current policy and regulations. Some of these regulations state as follows: 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 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 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,g of the WV Income Maintenance Manual and 7 CFR Section 273.16 .

The information submitted at your hearing did conclude that you committed an intentional program violation by withholding information regarding your employment and earned income.

It is the decision of the State Hearings Officer to **uphold** the proposed action of the Department to apply a Food Stamp Sanction to your case for an intentional program violation and to collect the overpayment, which resulted.

Sincerely,

Sharon K. Yoho
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Karen Crossland, Repayment Investigator

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
BOARD OF REVIEW**

Defendant,

v.

Action Number: 06-BOR-2355

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

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a hearing concluded on November 29, 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 Administrative Disqualification hearing was convened on November 29, 2006 on a request, filed by the Agency on July 10, 2006. This hearing was rescheduled two times at the request of the defendant and on this hearing date, the defendant failed to appear.

It should be noted here that any adverse action of the agency has been postponed pending a hearing decision.

II. PROGRAM PURPOSE:

The Program entitled Food Stamps is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & 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 stamp benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

III. PARTICIPANTS:

Karen Crossland, Repayment Investigator

Presiding at the Hearing was Sharon K. Yoho, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether it was shown by clear and convincing evidence that the defendant has committed an act of intentional program violation.

V. APPLICABLE POLICY:

Common Chapters Manual, Chapter 700, Appendix A, Section B
West Virginia Maintenance Manual Section 1.2; 1.4; 9.1; and 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Food Stamp claim determination for June 2006
- D-2 Food Stamp application form dated June 6, 2006
- D-3 Earned income verification, Provider Payment History Report
- D-4 Case Comments 6/6/06 thru 6/14/06
- D-5 WV Income Maintenance Policy 1.2
- D-6 WV Income Maintenance Policy 9.1
- D-7 WV Income Maintenance Policy 20.1

VII. FINDINGS OF FACT:

- 1) The defendant was in the [REDACTED] County DHHR office on June 6, 2006 to complete an application for Food Stamps and to apply for Emergency Assistance for rent. She reported to the caseworker that she lived alone and had no income. The Food Stamps were approved for expedited services due to zero income reported. The Emergency Assistance application was denied because the client did not have a legal eviction notice.
- 2) The defendant returned to the DHHR office on June 8, 2006 with a legal eviction notice and again reported to have no income and none anticipated for the next 30 days.
- 3) On June 12, 2006, caseworker EW0239 found a computer cross match, which shows the defendant to have received a check of \$1015. for childcare on May 16, 2006.

- 4) A follow-up contact made to [REDACTED] Child Care verified that the defendant had received a total of \$1100. in May 2006 and \$1240. in June 2006 for Child Care employment. Exhibit D-3 shows a check of \$1061.75 was received on June 6, 2006 which was the date of her Food Stamp application.
- 5) The Department determined that the client was not eligible for Emergency Assistance or Food Stamps based on this unreported income.
- 6) The caseworker referred the case to the Claims and Collection unit for repayment. The Repayment Investigator determined that the defendant might have committed an act of intentional program violation by withholding information regarding her income. The Claims and Collection unit then requested an Administrative Disqualification Hearing.
- 7) The defendant was made aware of her responsibility to report accurate information and the consequences of not doing so, at the application dated June 6, 2006. She withheld information regarding her income on June 6, 2006 and again on June 8, 2006.
- 8) **WV Income Maintenance Manual Policy § 1.2, states:** The client's responsibility is to provide information about his circumstances so the Worker is able to make a correct decision about his eligibility.
- 9) **WV Income Maintenance Manual Policy § 1.4, states:** Individuals who have committed an Intentional Program Violation (IPV) are ineligible for a specified time, determined by the number of previous (IPV) disqualifications.
- 10) **WV Income Maintenance Manual Policy § 20.2 states:** Intentional Program Violations include making false or misleading statements, misrepresentations, concealing or withholding information.
- 11) **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.
- 12) **According to policy in WV Income Maintenance Manual Section 9.1,A,2,g,** 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..

VIII. CONCLUSIONS OF LAW:

- 1) Policy 20.2 is clear that the intentional withholding of information at application for benefits is considered a violation of the Food Stamp program.

- 2) Policy 1.4 and 9.1 stipulates that if an intentional program violation has been committed, a disqualification penalty must be applied. The disqualification for a first time offense is twelve months.
- 3) The defendant did have an obligation to report her earned income and it is clear that she intentionally withheld information regarding her employment and earned income.
- 4) The defendant withheld information about her earnings on more than one occasion and it is clear that the defendant intentionally withheld this information necessary for accurate calculation of Food Stamp benefits. Evidence and testimony is clear and convincing that the defendant intentionally withheld this information.

IX. DECISION:

It is the finding of this Hearing Officer that the defendant did commit an intentional program violation; by withhold information necessary for accurate computation of Food Stamp benefits. It is the ruling of this Hearing Officer to **uphold** the Department's proposed action to impose a twelve month sanction for an IPV. This sanction is to go into affect January 1, 2007. The Food Stamp claim is to be established as an Intentional Program Violation claim and collected as such.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 12th Day of December 2006.

Sharon K. Yoho
State Hearing Officer