



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
PO Box 6165
Wheeling, WV 26003

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

November 22, 2006

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 31, 2006. Your hearing was based on the Department of Health and Human Resources' proposal that you 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 Stamps is based on current policy and regulations. Some of these regulations state as follows: 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.

The information submitted at your hearing revealed: You filed applications on August 17, 2005; February 9, 2006; March 10, 2006 and June 9, 2006 for benefits from the agency. On these applications you listed _____ as a member of the household and failed to report his income from SSI. As a result of these applications you received Food Stamp benefits totaling \$3599 for the months of September 2005 through June 2006. Evidence provided at the hearing held October 31, 2006 revealed that _____ has been a recipient of monthly SSI benefits since April 2002. His SSI amount in 2005 was \$564 per month and in 2006 it was \$603 per month. By failing to report _____'s SSI income, you were issued \$1241 in Food Stamp benefits for which you were not entitled.

It is the decision of the State Hearings Officer to **UPHOLD** the **PROPOSAL** of the Department that you committed 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 January 2007.

Sincerely,

Melissa Hastings
State Hearing Officer
Member, State Board of Review

cc: State Board of Review

Teresa Smith, Repayment Investigator

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

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

v.

Action Number: 06-BOR-2905

_____,

Defendant

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 October 31, 2006 for Ms. _____. 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. Notification of the October 31, 2006 hearing was mailed to the Defendant on September 28, 2006 via First Class Mail as Defendant is a current recipient of benefits from the agency.

It should be noted here that the Defendant was not present during the hearing.

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 EBT benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

III. PARTICIPANTS:

Teresa Smith, Repayment Investigator

Presiding at the Hearing was Melissa Hastings, 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, _____, committed an intentional program violation.

V. APPLICABLE POLICY:

WV Income Maintenance Manual Section 1.2E, 1.4L; WV Income Maintenance Manual Section 9.1A2h; WV Income Maintenance Manual Section 10.3; WV Income Maintenance Manual Section 20.2 and Common Chapters Manual, Chapter 700, Appendix A, Section B

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- DHS-1 Application for WV WORKS, Medicaid and Food Stamps dated and signed by Defendant on 08/17/05
- DHS-2 Application for Medicaid and Food Stamps dated and signed by Defendant 02/09/06
- DHS-3 Application for WV WORKS, School Clothing Allowance, Medicaid and Food Stamps dated and signed by Defendant 03/10/06
- DHS-4 Application for Medicaid and Food Stamps dated and signed by Defendant 06/09/06
- DHS-5 Case Comments dated 08/17/05 through 06/14/06 consisting of 11 pages
- DHS-6 WV State Online Query SSI Response dated 06/21/06 consisting of 3 pages
- DHS-7a Food Stamp Claim Determination form (ESSFS5) indicating dates of issuance as September 2005 through February 2006
- DHS-7b Food Stamp Claim Determination form (ESSFS5) indicating dates of issuance as March 2006 through May 2006
- DHS-7c Food Stamp Claim Determination form (ESSFS5) indicating dates of issuance as June 9, 2006
- DHS-8 Notification of Intent to Disqualify (IBGR44a) dated June 27, 2006 with Waiver of Administrative Disqualification Hearing (IGBR44) attached.
- DHS-9a WV Income Maintenance Manual Section 1.2 Client Responsibility
- DHS-9b WV Income Maintenance Manual Section 1.4L Repayment and Penalties
- DHS-9c WV Income Maintenance Manual Section 9.1g and h Food Stamp Eligibility Determination Groups
- DHS-9d WV Income Maintenance Manual Section 10.3 Chart of Income Sources
- DHS-9e WV Income Maintenance Manual Section 20.2 Food Stamp Claims and Repayment Procedures
- DHS-9f Common Chapters Manual Chapter 700 Appendix A, Section B
- DHS-10 Request for an Administrative Disqualification Hearing (IG-BR-30) dated 09/05/06
- DHS-11 Hearing Summary (IGBR31) dated 10/20/06

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) Common Chapters Manual, Chapter 700, Appendix A, Section B (**DHS9f**), indicates an intentional program violation consists of having intentionally made a false statement, or misleading 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) WV Income Maintenance Manual Section 9.1 (A) (2) (f) Food Stamp Eligibility Determination Groups (**DHS9c**) indicates 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.
- 3) WV Income Maintenance Manual Section 1.2 E Client Responsibility (**DHS9a**) indicates that it is the client's responsibility to provide information about his/her circumstances so the Worker is able to make a correct decision about eligibility.
- 4) WV Income Maintenance Manual Section 20.2 Food Stamp Claims and Repayment Procedures (**DHS9e**) indicates when an assistance group has been issued more Food Stamps than it was entitled to receive, corrective action is taken by establishing an Intentional Program Violation claim.
- 5) WV Income Maintenance Manual Section 10.3VVV Sources of Income Charts (**DHS9d**) indicates that SSI (Supplemental Security Income) is considered unearned income when determining Food Stamp eligibility.
- 6) Defendant filed applications for Food Stamp Benefits on August 17, 2005 (**DHS1**); February 9, 2006 (**DHS2**); March 10, 2006 (**DHS3**); and June 9, 2006 (**DHS4**). On all of these applications Defendant checked "Yes" to questions 4 and 42 of the Rights and Responsibilities which states in part:

I understand if I am found (by court action or an administrative Disqualification hearing) to have committed an act of intentional Program violation, I will not receive Food Stamp benefits as follows: First offense – one year; Second Offense – two years; Third Offense – Permanently. In addition, I will have to repay any benefits received For which I was not entitled.

I understand, if I give incorrect or false information or if I fail to report changes that I am required to report, I may be required to repay any benefits I receive. I may also be prosecuted for fraud.

- 7) All four of the above noted applications indicate that when asked if _____ received Supplemental Security Income (SSI), Defendant responded “No”.
- 8) Upon discovery that _____’s Social Security number that was entered into the computer system was incorrect, the agency required Defendant to provide a copy of the Social Security Card. Once the correct Social Security number was provided and entered into the computer system notice was received that _____ was receiving Supplemental Security Income (SSI). **(DHS5)**
- 9) Testimony from the department’s representative indicates that an online query was made to determine _____’s SSI income amount. WV State Online Query SSI Information Response **(DHS6)** indicates that _____’s SSI current amount as of June 21, 2006 was \$603 per month. Further testimony from the department’s representative indicates that she contacted the Social Security office in Steubenville, Ohio via telephone and was advised that _____’s first SSI check was issued in April 2002.
- 10) Repayment Investigator, Teresa Smith, prepared Food Stamp Claim Determination forms ESFS5 **(DHS7a, 7b and 7c)** indicating that Defendant was issued Food Stamp benefits from September 2005 through June 2006 totaling \$3599. When calculating the household’s eligibility including the SSI income, the household should have received \$2358 in Food Stamp benefits. The resulting overissuance was \$1241.
- 11) A request for an Administrative Disqualification Hearing **(DHS7)** was received by the Board of Review on September 7, 2006.
- 12) The facts presented during this Administrative Disqualification Hearing supports the Department’s proposal, that Defendant intentionally failed to report accurate information concerning her household income during applications filed August 17, 2006; February 9, 2006; March 10, 2006 and June 9, 2006. As a result of the false information provided on these applications the Defendant received \$1241 in Food Stamp benefits for which she was not entitled.

VIII. CONCLUSIONS OF LAW:

- 1) Common Chapters Manual, Chapter 700, Appendix A, Section B, states that an intentional program violation consists of having intentionally made a false statement, 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) WV Income Maintenance Manual Section 1.2 indicates that the client is responsible for reporting accurate information to the worker when making an application for benefits.

Evidence is clear that Defendant filed four applications for Food Stamp benefits in which she intentionally withheld information concerning the receipt of monthly SSI income for one of the household members.

- 3) WV Income Maintenance Manual Sections 9.1 and 20.2 indicates that claimant's found to have intentionally withheld information from the agency will be disqualified from participation in the Food Stamp Program for a period of twelve months for the first offense.
- 4) There is clear and convincing evidence that on four occasions Defendant intentionally provided false information concerning her household income when filing applications for Food Stamp benefits which resulted in Defendant receiving \$1241 in Food Stamp benefits for which she was not entitled.

IX. DECISION:

It is the decision of this State Hearing Officer to **UPHOLD** the Department's **PROPOSAL** that Defendant committed an Intentional Program Violation. A twelve months disqualification period is to be applied to the Defendant effective January 2007 and collection action initiated for repayment of the \$1241 overissuance.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Defendant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 22nd Day of November 2006.

**Melissa Hastings
State Hearing Officer**