



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

June 11, 2007

Dear Ms. _____,

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 31, 2007. The 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 providing fraudulent information regarding household composition.

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
Teresa Smith, Repayment Investigator

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

_____,

Defendant,

v.

Action Number: 07-BOR-1089

**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 May 31, 2007 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 May 31, 2007 on a request, filed by the Agency on April 6, 2007. After proper notice of the hearing date and time, 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:

Teresa Smith, 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 Application dated April 27, 2006
- D-2 School Clothing Application dated July 8, 2006
- D-3 Case Comments April 26, 2006 thru March 2, 2007
- D-4 Attendance verification from Preston County Schools
- D-5 Power of Attorney document
- D-6 Notification of Food Stamp approval dated April 28, 2006
- D-7 Food Stamp Claim Determination
- D-8 Notification of Intent to Disqualify dated February 23, 2007
- D-9 WV Income Maintenance Policy 1.2
- D-10 WV Income Maintenance Policy 1.4
- D-11 WV Income Maintenance Policy 9.1
- D-12 WV Income Maintenance Policy 20.1
- D-13 Common Chapters Manual, 700, Appendix A, Section B

VII. FINDINGS OF FACT:

- 1) The defendant was in the [REDACTED] County DHHR office on April 27, 2006 to complete a review of his Food Stamps for a three-person household. She reported that her granddaughter and grandson were residing with her while their parents were in the military and stationed in [REDACTED]. During this application, the defendant was made aware of her rights and responsibilities to report accurate information and the consequences of not doing so.

- 2) During the above application, the defendant reported to the caseworker that she had power of attorney for her granddaughter and was in the process of getting it for the grandson as well. She reported that she had the granddaughter with her because she did not get along with her stepfather. She reports that the grandson was also given to her to care for.
- 3) The defendant completed an application for School Clothing Allowance on July 8, 2006 for both her granddaughter and her grandson. She stated, on the form, that her granddaughter was in 9th grade and that her grandson was in Kindergarten. This application was approved for \$200. per child.
- 4) On August 14, 2006, the Department received a complaint that the grandson was not living with the defendant and never did. The worker scheduled an appointment to discuss this allegation with the defendant. The defendant did not show up for the appointment. The caseworker verified with the school system on October 30th that the grandson was not enrolled and then contacted the defendant's apartment complex manager, who reported that she had never seen the grandson. The caseworker then referred the case to the Claims and Collection Investigative unit who contacted the Navy and verified that the grandson was residing with his parents in [REDACTED]
- 5) The caseworker removed the grandson from the Food Stamp benefits effective December 2006 and the Claims and Collection unit established a Food Stamp overpayment claim for the months of April 2006 thru November 2006.
- 6) **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.
- 7) **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.
- 8) **WV Income Maintenance Manual Policy § 20.2 states:** Intentional Program Violations include making false or misleading statements, misrepresentations, concealing or withholding information.
- 9) **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.
- 10) **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 providing of false 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 provide accurate information regarding who was residing in her home. It is clear that she intentionally gave fraudulent information regarding household composition.
- 4) The defendant failed to provide information necessary for accurate calculation of Food Stamp benefits. Evidence and testimony is clear and convincing that the defendant intentionally provided false information in order to obtain more benefits than she was entitled to receive.

IX. DECISION:

It is the finding of this Hearing Officer that the defendant did commit an intentional program violation by providing false information. 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 July 1, 2007. The Food Stamp claim of \$880.00 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 11th Day of June 2007.

**Sharon K. Yoho
State Hearing Officer**