

BEFORE THE BOARD OF PUBLIC ASSISTANCE
OF THE STATE OF MONTANA

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| In the matter of the Food Stamp |) | ADMINISTRATIVE |
| Administrative Disqualification Hearing |) | DISQUALIFICATION |
| of Claimant |) | HEARING NO. 07-0444 |

After proper notice an Administrative Disqualification Hearing was held on January 25, 2007 which was initiated by Missoula County Office of Public Assistance to disqualify Claimant from receiving Food Stamp benefits for twelve months due to an alleged intentional program violation. The Administrative Disqualification Hearing was conducted by phone from the Missoula County Office of Public Assistance, Missoula, Montana and the Office of Fair Hearings, Helena, Montana. From the record the Hearing Officer now makes the following disposition of the case.

REPRESENTATION

Carey Taylor, Program Integrity Investigator, Department of Public Health and Human Services, Quality Assurance Division, Program Compliance Bureau, Program Investigation Unit, represented Missoula County Office of Public Assistance (hereinafter Missoula County). Claimant did not appear. Return receipt certified notice was sent to Claimant on December 21, 2006 advising him of the time, date and place of the Administrative Disqualification Hearing. The notice was returned by the Postal Service marked unclaimed. The hearing can be held as the State agency has discharged its responsibility under 7 CFR 273.16(e)(3) by sending notice through certified mail. The hearing may be conducted without the household member present which is allowed at 7 CFR 273.16(e)(4).

IDENTIFYING INFORMATION

Missoula County alleges that Claimant failed to report required information on his application. Missoula County believes these misrepresentations of facts to be an intentional program violation and thus has petitioned to disqualify Claimant from receiving Food Stamp benefits for twelve months.

EVIDENTIARY RULING

There were no objections to the evidence presented. Department Exhibits #1 through #10 were admitted into the record.

FINDINGS OF FACT

1. Claimant has received Food Stamp benefits in Montana off and on since January 2005. On April 10, 2006, Claimant submitted a new application for Food Stamp benefits to Missoula County. On that application, he marked \$0 cash or savings and based upon the information provided was approved for expedited Food Stamp benefits that same day. The application warns the applicant that it is unlawful to knowingly make false statements, misrepresent facts or conceal information in order to obtain benefits. Claimant affirmed on the application, that the statements made were true and correct.

2. Because Claimant could not stay for an interview, the interview was scheduled for April 14, 2006 at 9:00 a.m. On April 14, 2006 Claimant attended an interview. While looking in his wallet for his new post office box number, he took out a Bank of America ATM Card. When asked about the card, Claimant admitted that he had a savings account at Bank of America and had a balance of \$2,400 in savings there. At that time his case worker, Charity Buck informed Mr. Washington that he was not eligible for Food Stamp benefits because his resources were over the \$2,000 resource limit. Claimant then left the interview.

3. On October 27, 2006, Bank of America confirmed that Claimant had a balance of \$2,358.42 on April 10, 2006, \$2,344.04 on May 1, 2006 and \$2,272.06 on June 1, 2006 in his savings account.

4. On May 12, 2006 and June 19, 2006, the Program Integrity Unit sent Claimant letters explaining a referral had been received because he was suspected of committing an intentional program violation within the Food Stamp Program. Opportunity was given for him to discuss the issue with the Program Integrity Investigator. The Program Integrity Investigator has had no contact with Claimant.

5. Claimant has not been previously disqualified from the Food Stamp Program due to an intentional program violation. Therefore, this is a first Intentional Program violation.

CONCLUSIONS OF LAW

1. Pursuant to ARM 37.78.1001, the Food Stamp Program shall be governed by the regulations of the Food and Consumer Service of the United States Department of Agriculture contained in the following parts, except as the rules in Chapter 78 of Title 37 of the Administrative Rules of Montana make specific provisions which are contrary to the federal Food Stamp regulations, in which case these rules shall take precedence over the federal regulations: 7 CFR, Parts 271 through 275.

2. Federal statutory authority for treatment of Food Stamp intentional program violations can be found at 7 U.S.C.2015(b).

3. When there is sufficient documentary evidence to substantiate that an individual has intentionally made one or more acts of intentional program violation, then it is the responsibility of the Department of Public Health and Human Services to schedule an

administrative disqualification hearing or refer the case to a court of appropriate jurisdiction. 7 CFR 273.16(a).

4. 7 CFR 273.16(c) provides that an intentional program violation shall consist of having intentionally made a false 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 State statute relating to the use, presentation, transfer, acquisition, receipt or possession of Food Stamp Coupons.

5. The hearing authority shall base the determination of intentional program violation on clear and convincing evidence which demonstrates that the household member committed and intended to commit an intentional program violation. 7 CFR 273.16(e)(6).

6. Eligibility determinations for Food Stamp benefits are based in part on household resources. 7 CFR 273.8 and ARM 37.78.1001. The documents show Claimant was aware of and understood his reporting responsibilities and program requirements. Claimant committed and intended to commit an intentional program violation in defiance of the above Food Stamp statutes, regulations and rules by purposely withholding the fact that he owned resources in excess of \$2000. The Food Stamp application is specific and clear that all resources were to be reported and that there would be penalties if resource information was withheld. Clear and convincing evidence has been presented by Missoula County that Claimant committed an intentional program violation by concealing household resources in the form of a savings account. This constitutes a misrepresentation, concealment and withholding of facts by Claimant in violation of the Federal and State regulations.

7. Individuals found to have committed an intentional program violation either through an administrative disqualification hearing or by a court of appropriate jurisdiction shall

be disqualified from participation in the Food Stamp Program for twelve months for the first intentional violation, 24 months for the second violation, permanently for the third violation and ten years for misrepresenting residency or identity to obtain multiple benefits. 7 CFR 273.16(b). Claimant committed an intentional program violation. Claimant shall be disqualified from the Food Stamp Program for a period of twelve months as this is a first intentional program violation.

ORDER

As set forth in the Findings of Fact and Conclusions of Law, Missoula County Office of Public Assistance has properly determined that Claimant has committed an intentional program violation. Claimant shall be disqualified from the Food Stamp Program for a twelve month period, with such period beginning according to the applicable Federal and State regulations.

NOTICE: If a party disagrees with this Decision a request for board review may be made by filing notice of appeal to the Board of Public Assistance, P.O. Box 202953, Helena, Montana 59620. The notice of appeal must be received within fifteen days of the mailing of this decision.

DATED: February 16, 2007.

Harlan Rudolf
Hearing Officer

CERTIFICATION OF MAILING

I certify that I have mailed a true and correct copy of the above ADMINISTRATIVE DISQUALIFICATION DECISION by depositing same in the U.S. Mail postage prepaid on this _____ day of February, 2007 at Helena, Montana as follows:

Claimant
Address
City ST Zip

Bonnie Brown
Administrative Assistant

c: Patty Guiberson, Missoula Co. OPA
Carey Taylor
Rolene Benson
Jill Sark