



separated from her husband. Mrs. [REDACTED] has never sought child support from Mr. [REDACTED] for the care of her two minor children. (Testimony of Tammie Payton; Petitioner Exhibits 2 and 3.)

3. On January 18, 2013, Chatham County DFCS referred Mrs. [REDACTED] food stamps case to Petitioner for investigation. Petitioner contends that, contrary to Mrs. [REDACTED] affirmations on her food stamps applications, Mr. [REDACTED] resided with Mrs. [REDACTED] and her children from February 2011 through September 2013, during which time he was receiving income. According to Petitioner, inclusion of Mr. [REDACTED] income in the AU's food stamps benefits calculation results in AU income ineligibility. Accordingly, Respondent's intentional failure to report her husband's income resulted in an overpayment of food stamps benefits in the amount of \$13,006.00. At the hearing, Petitioner presented the following evidence to support its allegations:

- (1) The Postmaster for Pooler, Georgia reported that mail was delivered to Mr. [REDACTED] at the [REDACTED] Address. (Testimony of Tammie Payton; Petitioner Exhibit 4);
  - (2) The [REDACTED] Address is listed as Mr. [REDACTED] home address on his current driver's license. (Testimony of Tammie Payton; Petitioner Exhibit 5);
  - (3) Mr. [REDACTED] registered a vehicle that he purchased in December 2013 at the [REDACTED] Address. (Testimony of Tammie Payton; Petitioner Exhibit 6);
  - (4) On his 2012 application for unemployment benefits, Mr. [REDACTED] listed the [REDACTED] Address as his residence. (Testimony of Tammie Payton; Petitioner Exhibit 7);
  - (5) Ceres Marine Terminals, Inc., Mr. [REDACTED] employer since July 2004, reported the [REDACTED] Address as Mr. [REDACTED] address of record. (Testimony of Tammie Payton; Petitioner Exhibit 8);
  - (6) Mr. [REDACTED] listed the [REDACTED] Address as his address of record during his employment with Pier One Imports from March 2011 through February 2012. (Testimony of Tammie Payton; Petitioner Exhibit 9);
  - (7) Marine Terminals Corporation East, Mr. [REDACTED] employer since February 2011, reported the [REDACTED] Address as Mr. [REDACTED] address of record. (Testimony of Tammie Payton; Petitioner Exhibit 10).
4. SSA Cooper, LLC, Mr. [REDACTED] employer since July 2004, listed Mr. [REDACTED] address as [REDACTED] St., Savannah, GA rather than the [REDACTED] Address. (Petitioner Exhibit 11).
5. Mrs. [REDACTED] testified that Mr. [REDACTED] did not live at the [REDACTED] Address and speculated that he had been living with his girlfriend. She explained that, after Mr. [REDACTED] lost his job, she permitted him to list the [REDACTED] Address as his home address, which, she

contended, accounted for his repeated representations to others that he resided at the [REDACTED] Address. She further testified that she did not pursue a divorce from her husband for financial reasons and that she never sought child support because he had been “struggling” and provided for the care of the children via an informal arrangement. Mrs. [REDACTED] testimony regarding these matters lacked credibility and were uncorroborated by any witness or other evidence. (Testimony of [REDACTED])

### III. Conclusions of Law

1. The issues presented for consideration in this hearing are whether Mrs. [REDACTED] household received an over-issuance of food stamps by an intentional violation of Program rules, and, if so, the amount of the over-issuance. These issues must be resolved in accordance with the Food and Nutrition Act of 2008, 7 U.S.C. § 2011 et seq.; its implementing regulations, 7 C.F.R. §§ 273.1 through 273.18; and the Economic Support Services Manual of the Georgia Department of Human Services [hereinafter Food Stamps Manual] § 4000. In this case, the Office of Inspector General alleges that Mrs. [REDACTED] failed to report that Mr. [REDACTED] an adult with earned income, was residing in her household, while she was receiving food stamps benefits for an AU of three.

2. An intentional program violation results when a food stamps applicant or recipient has “intentionally . . . made a false or misleading statement, or misrepresented, concealed, or withheld facts.” 7 C.F.R. § 273.16(c)(1). A person found to have committed an intentional program violation must be disqualified from program participation for twelve months, twenty-four months, or permanently, the length of the disqualification depending upon the number of previous intentional program violations committed by that person. Food Stamps Manual. § 3315; 7 U.S.C. § 2015(b)(1). The household is responsible for the repayment of any over-issuances. Food Stamps Manual § 4000.

3. To sustain the allegation that Mrs. [REDACTED] has committed an intentional program violation, the evidence must be “clear and convincing,” which means that more than a mere preponderance of the evidence is required. The standard has been described by one court as follows:

Clear and convincing evidence requires that the evidence must be found to be credible; the facts to which the witnesses testify must be precise and explicit and the witnesses must be lacking in confusion as to the facts in issue. The evidence must be of such weight that it produces in the mind of the trier of fact a firm belief or conviction, without hesitancy, as to the truth of the allegations sought to be established.

Smith v. Department of Health and Rehabilitative Svcs., 522 So. 2d 956, 958 (Fla. App. 1988). However, proof beyond a reasonable doubt, as the State must provide in a criminal case, is not required. See Addington v. Texas, 441 U.S. 418, 424 (1979); Motes v. Hall County, 251 Ga. 373 (1983).

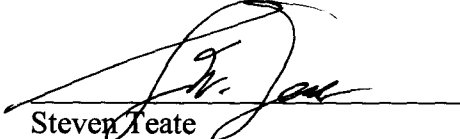
4. In this case, OIG proved by clear and convincing evidence that Mrs. [REDACTED] intentionally violated the rules and regulations of the food stamps program by falsely reporting that Mr.

██████ was not a member of her household assistance unit during the time period of February 2011 through September 2013. 7 C.F.R. § 273.16(c)(1). OIG presented evidence that Mr. ██████ held the ██████ Address out to others, including the more recent of two employers for whom he works varying hours. Moreover, the record shows that Mr. ██████ mail is delivered to the household and that the household's address is listed as his residence on his current driver's license. Mrs. ██████ has never initiated judicial or administrative actions to collect child support during Mr. ██████ alleged absence from the household even though she has financial needs to do so. Mrs. ██████ testimony regarding the possible reasons that Mr. ██████ consistently declared the ██████ Address to be his residence throughout the relevant period is not credible and fails to refute the overwhelming evidence that Mr. ██████ resided in the household.

#### IV. Decision

By clear and convincing evidence, the record established that Mrs. ██████ committed an intentional program violation by failing to report that her husband was living in the household and failing to report that he was receiving income. Accordingly, an intentional program violation is found and Petitioner's request to administratively disqualify Respondent from the food stamps program is hereby **GRANTED**. Mrs. ██████ household has been overpaid \$13,006.00 in food stamp benefits and the DHS is authorized to collect that sum from Mrs. ██████ and her household. This constitutes Mrs. ██████ first intentional program violation and is subject to a 12-month suspension from the Supplemental Nutrition Assistance Program (SNAP).

**SO ORDERED**, this 13<sup>th</sup> day of May 2014.

  
Steven Teate  
Administrative Law Judge