



Rhode Island Executive Office of Health and Human Services
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April 1, 2015

Docket # 15-118

DOB: [REDACTED]

Hearing Date: March 10, 2015



ADMINISTRATIVE DISQUALIFICATION HEARING DECISION

The Administrative Disqualification Hearing has been decided in the Agency's favor. During the course of the proceeding, the following issues(s) and Agency regulation reference(s) were the matters before the hearing.

**CODE FEDERAL REGULATION: FOOD AND NUTRITION SERVICE
7 CFR 273.16-DISQUALIFICATION FOR INTENTIONAL PROGRAM VIOLATION**

**R.I. DEPARTMENT OF HUMAN SERVICES (DHS) RULES®ULATIONS: SNAP
SECTION: 1034-INTENTIONAL PROGRAM VIOLATIONS**

The facts of your case, applicable rules and regulations, and the complete administrative decision made in this matter follow. Your rights to judicial review of this decision are found on the last page of this decision.

Copies of this decision have been sent to the following: You (the respondent), and Agency representatives Lisa Vingj, Christine Messier, Judith Anderson, Linda Demoranville, Nancy DelPrete, Vincent Guglielmino, and the Food Stamp Corrective Action Unit.

Present at the Administrative Disqualification hearing convened on the above cited date was: Lisa Vingj (RI Department of Human Services Fraud Investigator).

ISSUE: Did you, the respondent, commit an intentional SNAP Program violation by making a false statement, or by misrepresenting, concealing or withholding facts?

APPEAL RIGHTS:

Please see attached NOTICE OF APPELLATE RIGHTS at the end of this decision.

POLICIES:

The CODE FEDERAL REGULATION: FOOD AND NUTRITION SERVICE

Section 7 CFR 273.16(e)(6) Criteria for determining intentional program violation, states:

The hearing authority shall base the determination of intentional program violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, intentional program violation as defined in paragraph (c) of this section.

Section 7 CFR 273.16(c) Definition of intentional program violation, states:

Intentional Program violations 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 Program Regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system (access device).*

The R.I. DHS POLICY MANUAL: Supplemental Nutrition Assistance Program (SNAP)

Section 1034.15 Criteria for Determining an IPV, states:

The hearing authority must base the determination of intentional program violation on clear and convincing evidence, which demonstrates that the household member(s) committed, and intended to commit, intentional program violation as defined below:

- made a false statement, or misrepresented, concealed facts or withheld facts;*
- or*
- committed any act that constitutes a violation of the Food and Nutrition Act of 2008, as amended, 7 USC 2011-2036, the Supplemental Nutrition Assistance Program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt, or possession of SNAP benefits or EBT cards.*

An Administrative Disqualification Hearing was convened on March 10, 2015 to examine the charge that the respondent had committed an Intentional Program Violation of the Supplemental Nutrition Assistance Program (SNAP) regulations. The respondent failed to appear at the hearing convened on March 10, 2015. In accordance with 7CFR 273.16(e)(3) and Section 1034.25.10 of the DHS Policy manual, the Agency provided at least thirty (30) days advance notice, in writing, of the scheduling of this hearing. The notices were sent by first class mail to the respondent's mailing address of record and have not been returned.

In accordance with 7CFR 273.16(e)(4), the hearing was conducted without the respondent present or represented. Even though the respondent was not present or represented, the

Administrative Disqualification Hearing Officer is nonetheless required to carefully consider the evidence and determine if an Intentional Program Violation had occurred, in accordance with the standard of clear and convincing evidence. If within ten (10) days of the decision, the respondent presents good cause for failure to appear at the hearing, the Administrative disqualification hearing officer who originally ruled on the case may conduct a new hearing and issue a new decision.

DISCUSSION OF THE EVIDENCE:

The record of hearing consists of the testimony and documents submitted into evidence at the hearing.

The Agency representative, in her statements, maintained that the respondent had knowingly reported that her daughter was living with her in August 2014, which allowed for SNAP benefits for a household of three. The Agency maintained that the daughter had been living with her father since on or before June 2014, and that the mother had not been entitled to the SNAP benefits she received on behalf of her daughter from August 2014, the date of her SNAP Interim Report, through December 2014.

The Agency submitted into evidence:

- An Electronic Claim Panel, dated December 9, 2014. The panel stated, "Client did not report on August 20 Interim that child left HH (household) (6/20/2014 per DCYF) overpaid 10/14-12/14.
- An email, dated November 28, 2014 sent by a DCYF worker to DHS worker Judith Jamison. The letter stated that the father (of the respondent's child) had placement of his daughter, and was requesting medical and food stamps for her.
- An email dated December 5, 2014 from the same DCYF worker to DHS indicating that the worker had been advised that the daughter had gone to live with her father on June 20, 2014 following completion of the school year.
- Receipt of an RI SNAP Interim Report signed by the respondent, and date stamped August 20, 2014. The Agency representative called attention to question 3: "Who lives in your home", to which the respondent listed her daughter (above), another household member, and noted that a third household member was now deceased. The Agency further called attention to page one which noted "no changes" to household composition, and further called attention to page 7 which was signed and dated by the respondent on August 2014.

- A copy of an Agency F20 SNAP notice dated December 10, 2014, addressed and sent to the respondent to her address of record, and not returned as “undeliverable”. The notice was signed by Agency Representative Lisa Vingi, informing the respondent of the alleged over-issuance of \$762.00 in benefits paid to her during the period from August 1, 2014 through December 31, 2014 as a result of fraudulent activity. Included with the notice was an Agency RIFS-121C Waiver of Right to Administrative Disqualification Hearing, which indicated that by signing the form, she would accept a one year penalty as a result of a first violation. Also included: a DHS-155 form-Information about Administrative Disqualification Hearings-and, an F-19-summary of SNAP overpayment calculations.
- A copy of an Advance Notice of Administrative Disqualification Hearing letter dated February 6, 2014, sent to the respondent’s address of record, informing her that a hearing was scheduled for March 10, 2015 at 9:30am at the DHS Providence Regional Family Center. Also included was a statement of the alleged violation, amount of over issuance, and the disqualification time frames for a first offense.

The Agency representative testified that the fraud investigation commenced upon receipt of an Electronic Claim Referral received on December 8, 2014. The referral indicated that the respondent did not report on question three of her August 2014 Interim Report that her daughter was no longer living in the household. Yet, on question three, she did report that an adult member of the household was deceased. The representative further testified that two correspondences were sent to the DHS worker from a DCYF worker. The first correspondence in November 2014 indicated that the child’s father was requesting medical and food stamps for his daughter, of whom he had placement through DCYF. The second email confirmed that the daughter was to have gone to live with her father on June 20, 2014 following completion of the school year. The Agency testified that in August after the child had gone to live with her father, the respondent had filled out her Interim SNAP report indicating that her daughter still lived in her household, and that there were no changes in her household. The Agency representative further testified that misrepresentation of the household size of three rather than two resulted in an over-issuance of benefits totaling \$762.00 for the months from the time of application in August 2014 through December 2014. The Agency requested that the respondent be sanctioned from participation in the SNAP program for a period of one year for this first violation which was committed knowingly, willfully, and/or with deceitful intent. The Agency contends that they had demonstrated by clear and convincing evidence that the respondent had committed an Intentional Program Violation (IPV).

FINDINGS OF FACT:

After a careful review of the record of hearing, the following findings of fact have been established.

1. The respondent submitted a completed and signed SNAP Interim Report received by the Agency on August 20, 2014. The respondent's signature appeared immediately below a statement, which in part reads as follows:

I certify under penalty of perjury that my answers are correct, and complete to the best of my knowledge and belief. I know that under the State of Rhode Island General Laws, Section 40-6-15, a maximum fine of \$1000.00 or imprisonment of up to five (5) years, or both may be imposed for a person who obtains, or aids or abets any person to obtain public assistance to which s/he is not entitled, or who willfully fails to report income, resources or personal circumstances or increases therein which exceed the amount previously reported. I understand that the information I provide on this form may result in a change or termination of my benefits.

2. On question 3 of the Interim Report, the respondent listed her daughter as part of the household, and removed an adult (deceased) from the household composition, citing a household of three.
3. An email dated November 28, 2014 was sent by a DCYF worker to DHS worker Judith Jamison, and stated that the father (of the respondent's child) had placement of his daughter, and was requesting medical and food stamps for her.
4. An email dated December 5, 2014 sent from the same DCYF worker to the DHS worker indicated that the DCYF worker had been advised that the daughter had gone to live with her father on June 20, 2014 following completion of the school year.
5. A December 9, 2014 Electronic Claim referral identified that the "Client did not report on the August 20 Interim that child left HH(household) (6/20/2014 per DCYF), overpaid 10/14-12/14".
6. The respondent received benefits for a household of three from the time of the SNAP Interim Report in August 2014 through December 2014.

CONCLUSION:

After a careful review of the testimony and documents presented at hearing, this Hearing Officer concludes the following:

1. The respondent was aware of her rights and responsibilities when she signed the SNAP Interim report received on August 20, 2014.
2. On the August 20th Interim report the respondent made changes to her family composition, but noted that her daughter was part of her household and living with her, allowing her a family composition of three (there is another child in the home).
3. Correspondences received in December from a DCYF worker noted that the father of the daughter in question was requesting food stamp benefits in November 2014, and that he had placement of his daughter through an open DCYF case. The second correspondence further noted that the child was to have gone to live with her father on or about June 20, 2014 following completion of her school year.
4. On question 3 of the Interim report, the respondent removed a deceased member of the household, inferring that she actively read the form and made purposeful changes. On the same question, the respondent documented that her daughter still lived in the household although the daughter was already living with her father at the time of the application.
5. As a result of reporting a household of three rather than two, the respondent received an over-issuance of SNAP benefits totaling \$762.00 for the period from August 1, 2014 and ending December 31, 2014.
6. There is clear and convincing evidence, that the respondent did intentionally report her daughter as living in her household so that benefits could be received for a family of three rather than two.
7. The Agency has demonstrated, by clear and convincing evidence that the respondent had, in fact, committed an Intentional Program Violation of the Supplemental Nutritional Assistance Program.
8. There is clear and convincing evidence that a Food Stamp benefit over-issuance did occur from August 1, 2014 through December 31, 2014 due to the Intentional Violation.

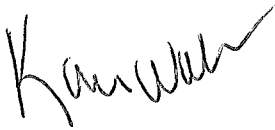
As a consequence, you, as head of household, will not be eligible to participate in the SNAP Program for one year, per 7 CFR273.16 (b)(1)(i), which states in part:

...Individuals found to have committed an intentional Program violation either through an administrative disqualification hearing or by a Federal, State or local

court, or who have signed either a waiver of right to an administrative disqualification hearing or a disqualification consent agreement in cases referred for prosecution, shall be ineligible to participate in the Program: For a period of twelve months for the first intentional Program violation, except as provided under paragraphs (b)(2), (b)(3), (b)(4), and (b)(5) of this section;...

The Department's Claims, Collections, and Recoveries Unit is charged with the responsibility to secure restitution for the overpayment.

Be advised that this is your first intentional violation; a second would result in a period of ineligibility for twenty four months, and a third violation would result in a permanent sanction from the Food Stamp Program.



Karen Walsh
Administrative Disqualification Hearing Officer

NOTICE OF APPELLATE RIGHTS

This Final Order constitutes a final order of the Department of Human Services pursuant to RI General Laws §42-35-12. Pursuant to RI General Laws §42-35-15, a final order may be appealed to the Superior Court sitting in and for the County of Providence within thirty (30) days of the mailing date of this decision. Such appeal, if taken, must be completed by filing a petition for review in Superior Court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms.