



Rhode Island Executive Office of Health and Human Services
Appeals Office, 57 Howard Ave., LP Building, 2nd floor, Cranston, RI 02920
phone: 401.462.2132 fax: 401.462.0458

April 1, 2015

Docket # 15-268

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 Vingi, Christine Messier, Vania Rebollo, Betty Perez, Robin Barradas, and the Food Stamp Corrective Action Unit.

Present at the Administrative Disqualification hearing convened on the above cited date was: Lisa Vingi (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. 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 these hearings. The notice was sent by first class mail to the respondent's mailing address of record and has 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 identified that two of her children were living with her when she signed her SNAP-APP2 in September 2014-and they were not. The Agency maintained that the children had been living out of state and attending school in Oklahoma since 2013, and that the mother had returned to R.I. in September 2014, but the children had remained. As a result of the misrepresentation, the Agency contends that the appellant received an over-issuance of SNAP benefits for the period from November 1, 2014 through December 31, 2014 in the amount of \$537.00.

The Agency submitted into evidence:

- A telephone log of a call between an Oklahoma DHS worker and the Fraud investigator, indicating a "Paris Match" for two of the respondent's children. She further reported that the children were "active" in Oklahoma with their dad, and report cards would be sent to prove they are still living there. The caller added that the respondent had moved to R.I. September 2014.
- A fax dated December 4, 2014 which included a Tulsa Oklahoma Public Schools Transfer Information printout identifying that the two children had been enrolled in the Oklahoma public school system for the 2013/2014 school year, and the 2014/2015 school year.
- An email dated December 5, 2014 sent from Vilma DiOrio of the R.I. Department of Education reporting that neither child had ever been enrolled for school in the state of R.I.
- A copy of the respondent's SNAP application (SNAP-APP-2) signed by the respondent on September 11, 2014, and signed by the DHS representative on September 14, 2014. The fraud investigator noted that the DHS ET reviewed the application with the respondent. She further called attention to Question 2 in which the respondent identified the two children as part of her current household, and on which she responded "yes" to application for benefits for 4 children, which included the two discussed above. The representative also called attention to page 14 upon which the respondent affixed her signature.

- A copy of an Agency F20 SNAP notice dated January 2, 2015 addressed and sent to the respondent to her address of record. The notice was signed by Agency Representative Lisa Vingi informing the respondent of the alleged over-issuance of \$527.00 in benefits used during the period from November 1, 2014 to 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, 2015, sent to the respondent's address of record, informing her that a hearing was scheduled for March 10, 2015 at 9am 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 a telephone call from a DHS worker in Oklahoma who identified that she had obtained a Paris Match for two of the respondent's children. She noted that a Paris Match is a computer matching process by which Social Security numbers of public assistance recipients are matched against various Federal databases and those of participating states in order to prevent simultaneous participation in benefit programs among states. The caller identified that the children lived with their father in Oklahoma, and the respondent had moved from Oklahoma to R.I. in September 2014. She further testified that the respondent had completed a SNAP application on September 11, 2014, and had listed the two children as part of her household for whom she was requesting SNAP benefits. The Agency representative submitted documentation supporting the children's continued school attendance in Oklahoma since September 2013, and documentation from the RI Department of Education confirming that the two children had never been enrolled in school in RI. The Agency representative further testified that the respondent's reporting of two household members who were not actually in her household, resulted in an over-issuance of SNAP benefits totaling \$537.00. 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 SNAP application (SNAP-APP2) signed on September 11, 2014. The respondent's signature appeared immediately below a statement, which in part reads as follows:

DECLARATION OF APPLICANT/RECIPIENT SNAP PENALTY WARNINGS-
I understand that:

*1. Any member of my household who intentionally breaks a food stamp rule can be barred from the Supplemental Nutrition Assistance Program: *For a period of one (1) year for the first violation, with the exceptions in numbers 2. and 3. below; *For a period of two (2) years after the second violation, with the exception in number 3 below; and, *Permanently for the third occasion of any intentional program violation.*

2. Individuals found by a Federal, State, or local court to have used or received SNAP benefits in a transaction involving the sale of firearms, ammunitions or explosives shall be permanently ineligible for the Supplemental Nutrition Assistance program upon the first occasion of such violation.

3. Individuals convicted of trafficking food stamp benefits of five hundred dollars (\$500) or more shall be permanently disqualified from the Supplemental Nutrition Assistance program.

4. Individuals found by the Department of having made, or convicted in a Federal or State court of having made, a fraudulent statement or representation with respect to their benefits simultaneously under the Supplemental Nutrition Assistance Program would be disqualified for a ten (10) year period.

DO NOT give false information or hide information to get or continue to get SNAP benefits.

DO NOT trade or sell EBT cards.

DO NOT use SNAP benefits to buy ineligible items, such as alcoholic drinks and tobacco.

DO NOT use someone else's EBT card for your household.

****Signature Required****

By signing this application, I certify under penalty of perjury that I have read (or have had read to me) and understand the Notice of Rights, Responsibilities, and Penalties, and 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.

2. On Question #2 of The SNAP-APP2 a request was made for the names of the members living in the household. The respondent listed three children (two of whom are discussed below).
3. A December 4, 2014 phone call from an Oklahoma DHS worker indicated a Paris Match for the two children who were then living in Oklahoma with their father.
4. A Tulsa Public Schools transfer information notice sent on December 4, 2014 identified that both children had attended school in the Oklahoma school system during the 2013/2014 and 2014/2015 school year.
5. A December 5th email from the R.I. Department of Education verified that neither of the two children had ever been enrolled in the R.I. school system.
6. The December phone call from DHS Oklahoma noted that the respondent had left Oklahoma in September 2014.
7. The respondent signed her SNAP application on September 11th, and reviewed and verified the information with the SNAP ET on September 14, 2014 confirming that the two children were part of her household.

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-APP2 on September 11, 2014.
2. For SNAP benefit purposes, the respondent identified four household members on the SNAP application, a number which included the two children discussed throughout.
3. A telephone call from an Oklahoma DHS worker identified a Paris Match for the two children in question, stating that they had been living in Oklahoma and attending school there during the 2013/2014 and 2014/2015 school years.
4. The R.I. Department of Education confirmed that the two children had never been enrolled in the R.I. school system.

5. The Oklahoma DHS worker indicated that the respondent had left Oklahoma in September 2014 and returned to R.I.
6. The respondent did not accurately report the number of people in her household when she included the two children as part of her household on her signed SNAP-APP2 on September 11, 2014. She did not accurately reflect the number of people in her household when she review the same information with the DHS ET on September 14, 2014.
7. The respondent received additional SNAP benefits during the time period from November 1, 2014 through December 31, 2014 which she was not entitled to receive.
8. There is clear and convincing evidence, that the respondent did intentionally misrepresent her household in order to obtain SNAP benefits for which she was not entitled.
9. 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.
10. There is clear and convincing evidence that a Food Stamp benefit over-issuance did occur from November 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.