



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

May 1, 2015

Docket # 14-1929
[REDACTED]

Hearing Date: March 10, 2015



AMENDED DECISION

The Administrative Hearing decision in this matter is hereby AMENDED to reflect a change in the disqualification period. The initial decision reflected a Permanent sanction for the respondent in keeping with the recommendations of the Agency. This sanction is now AMENDED to recommend a sanction of twelve months which reflects the consequence for a first intentional Program violation. A permanent sanction would have required a former conviction as well as trafficking for an aggregate amount of \$500 or more. The respondent does not meet all of these criteria, and does meet the criteria for a first time violation. Thus, the respondent's penalty period has been reduced from Permanent to twelve months. The Final decision in this matter remains the same.

ADMINISTRATIVE DISQUALIFICATION HEARING DECISION

The Administrative Disqualification Hearing has been decided in the Agency's favor. During the course of the proceeding, the following issue(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 Vinggi, 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 Vinggi (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 both the initial hearing scheduled to take place on December 17, 2014; and, at the second hearing convened on March 10, 2015 at 10:30 am. 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, identified that the respondent's EBT card was found with 5 other EBT cards behind the counter of a local RI convenience during execution of a police search warrant. All of the cards had PIN numbers and dollar amounts taped to them. The Agency testified that four of the EBT card recipients met with Federal authorities and signed sworn statements admitting to SNAP fraud and violations. The Agency maintains that the respondent's card was similarly used for fraudulent purposes. The Agency representative further contends that use of the respondent's card at the convenience store resulted in fraudulent SNAP charges totaling \$621.81 from the period beginning September 2013 and ending on August 31, 2014.

The Agency submitted into evidence:

- A telephone log of a call between Pawtucket Detective David Medeiros and the SNAP fraud investigator, Lisa Vingi on August 8, 2014. The Detective reported the confiscation of 6 R.I. EBT cards from behind the counter of a local R.I.

convenience store on August 1, 2014. All cards were located in a box under the counter with dollar amounts and Personal Identification Numbers (PIN) taped to them.

- Receipt of a Pawtucket Police Department Narrative of an August 1, 2014 execution of a court ordered search warrant at the local R.I. convenience store (discussed above).
- Copies of 6 EBT cards with numbers, dates of issuance, and names of recipients.
- Copies of appointment letters dated September 10, 2014, and requesting attendance by the card holders at September 22, 2014 meetings. The respondent's appointment letter was not returned to the Agency, and notice was presumed.
- A disclaimer from the Investigator identifying that the following information has been deleted from the record with regards to the other EBT card recipients-all dates of birth, addresses, and social security numbers.
- On or about September 22, 2014, the Agency and the Senior Investigator with the United States Department of Agriculture met with four of the RI EBT card recipients whose cards were confiscated on August 1, 2014.
- Four of the six recipients attended the meetings which were held in order to discuss the EBT cards turned over to DHS by the Pawtucket Police Department.
- Four signed and sworn witness statements. All four statements included admissions of SNAP fraud, admissions that the cards in question were exchanged for cash or credit, and admissions that the cards were left with the store clerks. Additional SNAP violations were confirmed including purchasing of nonfood items, maintenance of credit accounts between the EBT recipients and the store clerk, and allegations that the store owner was complicit with the "illegal" EBT card transactions.
- A copy of an Agency F20 SNAP notice dated September 19, 2014, addressed and sent to the respondent to his address of record, and not returned "undeliverable". The notice was signed by Agency representative Lisa Vingi, and informed the respondent of the alleged over-issuance of \$621.81 in SNAP benefits received for the period of September 5, 2013 through August 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, he would accept a **permanent** sanction from the SNAP program as a result of a third violation. Also included-copies of EBT transactions at the convenience store beginning with September 2013 and ending on August 31, 2014.

- A copy of an Advance Notice of Administrative Disqualification Hearing letter dated November 13, 2014 sent to the respondent's address of record, informing him that a hearing was scheduled for December 17, 2014 at 10am 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.
- A copy of an Advance Notice of Administrative Disqualification Hearing Reschedule letter dated February 6, 2015 sent to the respondent's address of record, informing him that a rescheduled hearing was scheduled for March 10, 2015 at 10:30am at the DHS Providence Regional Family Center. The contents of the packet were identical to the notice sent on November 13, 2014.
- A copy of a SNAP APP2 Declaration page signed by the respondent on May 28, 2013. The Agency noted the declaration, "Do not sell or trade your EBT cards, and do not use SNAP benefits to buy ineligible items such as alcohol drinks & Tobacco."

The Agency representative testified that the fraud investigation commenced upon receipt of a telephone call from a Pawtucket police Detective who reported the confiscation of six RI EBT cards from behind the counter of a local convenience store on August 1, 2014. She further testified that each of the cards had a Personal Identification Number (PIN) and a dollar amount taped to them. A narrative presented by the police department indicated that the police had executed a court ordered search warrant on the premises resulting from an investigation into illegal sale of cigarettes with altered sales tax stamps. The Agency representative further testified that she sent appointment letters to schedule meetings with the card holders in order to discuss the transactions. Four of the six card recipients responded to her request to meet and discuss the questionable transactions on the EBT cards (a fifth was incarcerated). The four admitted to fraudulent use of the cards, admitted to SNAP violations, admitted to exchange of cards for cash or credit, and admitted to leaving the cards with the store owner. All four identified they were aware that their actions violated "SNAP laws and policies". The Agency testified that the respondent did not reply to her request for a meeting. She further opined that he was part of a pattern of fraudulent EBT card participants whose cards were located together at the same local convenience store; and, all of whom were complicit in violating their SNAP agreements, specifically, by exchanging their cards for cash or credit, and by leaving them with the store owner. The Agency maintained that an exchange of SNAP benefits for cash is considered Trafficking SNAP benefits, which in turn results in a permanent disqualification from participating in the SNAP program. The Agency requested that the respondent be sanctioned from participation in the SNAP program permanently as this violation 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 a SNAP application (SNAP-APP2) signed on May 28, 2013. 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.

PENALTIES FOR PERJURY

I certify under penalty of perjury that my answers are correct, including information about citizenship and alien status, 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. A copy of the August 1, 2014 police narrative of the court ordered search warrant at a local RI convenience store. The narrative included a description of a seizure of the following items behind the front counter-... " One cardboard box containing several RI EBT Cards with attached pin numbers and \$2,115.00 in US Currency." One of the six cards had been issued to the respondent.
3. An August 8, 2014 call from Pawtucket Police Detective David Medeiros identifying the confiscation of six R.I. EBT cards from behind the counter of a local R.I. convenience store. The Detective identified that each card had a dollar amount and PIN number taped to the back.
4. Copies of the 6 EBT cards with numbers, dates of issuance, and names of recipients. The respondent's card showed an issuance date of May 15, 2014, and included his name, and card number ending in [REDACTED]
5. Copies of an appointment letter sent to the respondent, dated September 10, 2014 requesting a September 22nd meeting to "discuss a few questionable EBT transactions in your account". The Agency noted that the remaining card holders were sent similar letters with the exception of one recipient who was incarcerated.
6. The respondent's appointment letter was sent to his address of record and not returned as "undeliverable."
7. Four signed and sworn witness statements from the EBT card holders, dated September 22, 2014. All recipients admitted to SNAP fraud, admitted to exchange of their cards for cash/or credit, and admitted to leaving their cards with the store clerk. Additional admitted SNAP violations included purchasing of nonfood items. The witness statements all included a statement of

acknowledgement by the recipients that they had committed actions violating "SNAP laws and policies".

8. An Agency F20 SNAP notice dated September 19, 2014, addressed to the respondent. The notice indicates Permanent ineligibility for participation in the Food Stamp Program if found to have committed an intentional violation.
9. Included with the F20 SNAP packet, copies of EBT transactions at the local convenience store on cards issued to [REDACTED]. Two different EBT cards were included for the local convenience store-one ending in [REDACTED] and totaling \$42.88 for transactions in 2013; and, one ending in [REDACTED] with transactions totaling \$577.72 from the date of issuance May 15, 2014 to the date of seizure, April 1, 2015. Numerous transactions were completed in amounts less than fifty cents. A July 30th financial history included three separate transactions, one for .35, leaving a balance of .34, a transaction one hour later for the balance of .34, and a third transaction minutes later.
10. A third card issued to the respondent ending in [REDACTED], was used at a different local market on August 8, 2014, seven days after the seizure of the respondent's card ending in 4005.

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 his rights and responsibilities when he signed the SNAP-APP2 on May 28, 2013.
2. On August 1, 2014 the respondent's EBT card was found and seized with 5 other EBT cards, during a raid of a local convenience store under investigation for fraudulent activities. All cards had their PIN numbers taped to the back.
3. Five of the six EBT card recipients were sent appointment letters on September 10th to meet and discuss the questionable EBT transactions in their accounts.
4. The respondent's card had numerous questionable transactions of purchases for less than .50 at the local convenience store.
5. EBT cards, per SNAP laws and policies cannot be used for non-food items.
6. Following one purchase for .35 which left a balance of .34, the respondent's card was then debited later in the day for a purchase of .34 leaving a balance of 0.

7. Four of the five EBT card recipients responded to the appointment letters which had requested a meeting with the Fraud investigator. The respondent did not reply to the letter in which he was asked to discuss the questionable activities on his card.
8. Four of the five recipients met on September 22nd and admitted to violations of the SNAP laws and regulations. All recipients admitted to knowingly leaving their cards with the store clerk and all admitted to cash/or credit exchanges.
9. The four SNAP EBT recipients signed sworn statements acknowledging they had knowingly violated SNAP laws and policies.
10. Seven days after the seizure of the respondent's card, a card issued to the respondent with a different card number, ending in [REDACTED] was debited for purchases.
11. The respondent's card and PIN number attached to the back was found in a store being investigated for fraudulent activity. The other cardholders admitted to fraudulent use of their cards and all signed sworn statements admitting to leaving their cards with the store owner or clerks, and swore to the complicity of the store personnel in fraudulent activity-specifically exchanging their cards for cash or credit. The respondent, once notified, did not meet with authorities as invited.
12. The respondent knowingly left his card and PIN at the same store. The PIN number is the personal number known only by the recipient.
13. The respondent was complicit in fraud, as evidenced by a pattern established by all the other card recipients under investigation as well as by his questionable transactions, and by his receipt and use of a third card days after the seizure of his card ending in [REDACTED]. The respondent was requested to meet with the Fraud investigator to discuss his transactions, but did not meet or respond to the request.
14. The respondent intentionally left his card and PIN with the convenience store personnel and he too violated SNAP laws and policies using his card for cash/and credit through that store.
15. Exchange of SNAP benefits for cash is considered Trafficking.
16. The respondent accrued benefits for the card ending in [REDACTED], totaling \$577.72 from the date of issuance, May 15, 2014 to the seizure of the card on August 1, 2014.
17. Although the Agency requested a Permanent sanction, Individuals **convicted** of Trafficking of benefits for an aggregate amount of \$500 or more results in permanent ineligibility for participation in the SNAP program. The respondent had

not been convicted, and thus will receive the consequence for a first violation.

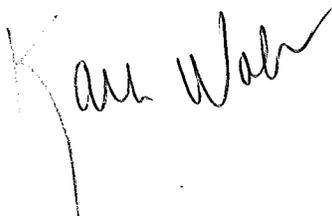
18. There is clear and convincing evidence, that the respondent did intentionally allow exchange of his EBT card and personal PIN for cash and credit and did intentionally commit fraud.
19. The Agency has demonstrated, by clear and convincing evidence that the respondent had, in fact, committed an Intentional Program Violation of the Supplemental Nutritional Assistance Program.
20. There is clear and convincing evidence that a Food Stamp benefit over-issuance of \$577.72 did occur on his EBT card ending in [REDACTED] from May 15, 2014 through April 1, 2014.

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.



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April 3, 2015

Docket # 14-1929
[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 issue(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:

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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.

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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 both the initial hearing scheduled to take place on December 17, 2014; and, at the second hearing convened on March 10, 2015 at 10:30 am. 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, identified that the respondent's EBT card was found with 5 other EBT cards behind the counter of a local RI convenience during execution of a police search warrant. All of the cards had PIN numbers and dollar amounts taped to them. The Agency testified that four of the EBT card recipients met with Federal authorities and signed sworn statements admitting to SNAP fraud and violations. The Agency maintains that the respondent's card was similarly used for fraudulent purposes. The Agency representative further contends that use of the respondent's card at the convenience store resulted in fraudulent SNAP charges totaling \$621.81 from the period beginning September 2013 and ending on August 31, 2014.

The Agency submitted into evidence:

- A telephone log of a call between Pawtucket Detective David Medeiros and the SNAP fraud investigator, Lisa Vingi on August 8, 2014. The Detective reported the confiscation of 6 R.I. EBT cards from behind the counter of a local R.I. convenience store on August 1, 2014. All cards were located in a box under the counter with dollar amounts and Personal Identification Numbers (PIN) taped to them.
- Receipt of a Pawtucket Police Department Narrative of an August 1, 2014 execution of a court ordered search warrant at the local R.I. convenience store (discussed above).
- Copies of 6 EBT cards with numbers, dates of issuance, and names of recipients.
- Copies of appointment letters dated September 10, 2014, and requesting attendance by the card holders at September 22, 2014 meetings. The respondent's appointment letter was not returned to the Agency, and notice was presumed.

- A disclaimer from the Investigator identifying that the following information has been deleted from the record with regards to the other EBT card recipients-all dates of birth, addresses, and social security numbers.
- On or about September 22, 2014, the Agency and the Senior Investigator with the United States Department of Agriculture met with four of the RI EBT card recipients whose cards were confiscated on August 1, 2014.
- Four of the six recipients attended the meetings which were held in order to discuss the EBT cards turned over to DHS by the Pawtucket Police Department.
- Four signed and sworn witness statements. All four statements included admissions of SNAP fraud, admissions that the cards in question were exchanged for cash or credit, and admissions that the cards were left with the store clerks. Additional SNAP violations were confirmed including purchasing of nonfood items, maintenance of credit accounts between the EBT recipients and the store clerk, and allegations that the store owner was complicit with the "illegal" EBT card transactions.
- A copy of an Agency F20 SNAP notice dated September 19, 2014, addressed and sent to the respondent to his address of record, and not returned "undeliverable". The notice was signed by Agency representative Lisa Vingji, and informed the respondent of the alleged over-issuance of \$621.81 in SNAP benefits received for the period of September 5, 2013 through August 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, he would accept a **permanent** sanction from the SNAP program as a result of a third violation. Also included-copies of EBT transactions at the convenience store beginning with September 2013 and ending on August 31, 2014.
- A copy of an Advance Notice of Administrative Disqualification Hearing letter dated November 13, 2014 sent to the respondent's address of record, informing him that a hearing was scheduled for December 17, 2014 at 10am 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.
- A copy of an Advance Notice of Administrative Disqualification Hearing Reschedule letter dated February 6, 2015 sent to the respondent's address of record, informing him that a rescheduled hearing was scheduled for March 10, 2015 at 10:30am at the DHS Providence Regional Family Center. The contents of the packet were identical to the notice sent on November 13, 2014.
- A copy of a SNAP APP2 Declaration page signed by the respondent on May 28, 2013. The Agency noted the declaration, "Do not sell or trade your EBT cards,

and do not use SNAP benefits to buy ineligible items such as alcohol drinks & Tobacco.”

The Agency representative testified that the fraud investigation commenced upon receipt of a telephone call from a Pawtucket police Detective who reported the confiscation of six RI EBT cards from behind the counter of a local convenience store on August 1, 2014. She further testified that each of the cards had a Personal Identification Number (PIN) and a dollar amount taped to them. A narrative presented by the police department indicated that the police had executed a court ordered search warrant on the premises resulting from an investigation into illegal sale of cigarettes with altered sales tax stamps. The Agency representative further testified that she sent appointment letters to schedule meetings with the card holders in order to discuss the transactions. Four of the six card recipients responded to her request to meet and discuss the questionable transactions on the EBT cards (a fifth was incarcerated). The four admitted to fraudulent use of the cards, admitted to SNAP violations, admitted to exchange of cards for cash or credit, and admitted to leaving the cards with the store owner. All four identified they were aware that their actions violated “SNAP laws and policies”. The Agency testified that the respondent did not reply to her request for a meeting. She further opined that he was part of a pattern of fraudulent EBT card participants whose cards were located together at the same local convenience store; and, all of whom were complicit in violating their SNAP agreements, specifically, by exchanging their cards for cash or credit, and by leaving them with the store owner. The Agency maintained that an exchange of SNAP benefits for cash is considered Trafficking SNAP benefits, which in turn results in a permanent disqualification from participating in the SNAP program. The Agency requested that the respondent be sanctioned from participation in the SNAP program permanently as this violation 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 a SNAP application (SNAP-APP2) signed on May 28, 2013. 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.

PENALTIES FOR PERJURY

I certify under penalty of perjury that my answers are correct, including information about citizenship and alien status, 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. A copy of the August 1, 2014 police narrative of the court ordered search warrant at a local RI convenience store. The narrative included a description of a seizure of the following items behind the front counter-... " One cardboard box containing several RI EBT Cards with attached pin numbers and \$2,115.00 in US Currency." One of the six cards had been issued to the respondent.
3. An August 8, 2014 call from Pawtucket Police Detective David Medeiros identifying the confiscation of six R.I. EBT cards from behind the counter of a local R.I. convenience store. The Detective identified that each card had a dollar amount and PIN number taped to the back.
4. Copies of the 6 EBT cards with numbers, dates of issuance, and names of recipients. The respondent's card showed an issuance date of May 15, 2014, and included his name, and card number ending in [REDACTED].
5. Copies of an appointment letter sent to the respondent, dated September 10, 2014 requesting a September 22nd meeting to "discuss a few questionable EBT transactions in your account". The Agency noted that the remaining card holders were sent similar letters with the exception of one recipient who was incarcerated.
6. The respondent's appointment letter was sent to his address of record and not returned as "undeliverable."
7. Four signed and sworn witness statements from the EBT card holders, dated September 22, 2014. All recipients admitted to SNAP fraud, admitted to exchange of their cards for cash/or credit, and admitted to leaving their cards with the store clerk. Additional admitted SNAP violations included purchasing of nonfood items. The witness statements all included a statement of acknowledgement by the recipients that they had committed actions violating "SNAP laws and policies".
8. An Agency F20 SNAP notice dated September 19, 2014, addressed to the respondent. The notice indicates Permanent ineligibility for participation in the Food Stamp Program if found to have committed an intentional violation.
9. Included with the F20 SNAP packet, copies of EBT transactions at the local convenience store on cards issued to [REDACTED]. Two different EBT cards were included for the local convenience store-one ending in 9631 and totaling \$42.88 for transactions in 2013; and, one ending in [REDACTED] with transactions totaling \$577.72 from the date of issuance May 15, 2014 to the date of seizure, April 1, 2015. Numerous transactions were completed in amounts less than fifty cents. A July 30th financial history included three separate transactions, one for .35, leaving a balance of .34, a transaction one hour later for the balance of .34, and a third transaction minutes later.

10. A third card issued to the respondent ending in [REDACTED], was used at a different local market on August 8, 2014, seven days after the seizure of the respondent's card ending in [REDACTED].

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 his rights and responsibilities when he signed the SNAP-APP2 on May 28, 2013.
2. On August 1, 2014 the respondent's EBT card was found and seized with 5 other EBT cards, during a raid of a local convenience store under investigation for fraudulent activities. All cards had their PIN numbers taped to the back.
3. Five of the six EBT card recipients were sent appointment letters on September 10th to meet and discuss the questionable EBT transactions in their accounts.
4. The respondent's card had numerous questionable transactions of purchases for less than .50 at the local convenience store.
5. EBT cards, per SNAP laws and policies cannot be used for non-food items.
6. Following one purchase for .35 which left a balance of .34, the respondent's card was then debited later in the day for a purchase of .34 leaving a balance of 0.
7. Four of the five EBT card recipients responded to the appointment letters which had requested a meeting with the Fraud investigator. The respondent did not reply to the letter in which he was asked to discuss the questionable activities on his card.
8. Four of the five recipients met on September 22nd and admitted to violations of the SNAP laws and regulations. All recipients admitted to knowingly leaving their cards with the store clerk and all admitted to cash/or credit exchanges.
9. The four SNAP EBT recipients signed sworn statements acknowledging they had knowingly violated SNAP laws and policies.
10. Seven days after the seizure of the respondent's card, a card issued to the respondent with a different card number, ending in [REDACTED] was debited for purchases.
11. The respondent's card and PIN number attached to the back was found in a

store being investigated for fraudulent activity. The other cardholders admitted to fraudulent use of their cards and all signed sworn statements admitting to leaving their cards with the store owner or clerks, and swore to the complicity of the store personnel in fraudulent activity-specifically exchanging their cards for cash or credit. The respondent, once notified, did not meet with authorities as invited.

12. The respondent knowingly left his card and PIN at the same store. The PIN number is the person number known only by the recipient.
13. The respondent was complicit in fraud, as evidenced by a pattern established by all the other card recipients under investigation as well as by his questionable transactions, and by his receipt and use of a third card days after the seizure of his card ending in [REDACTED]. The respondent was requested to meet with the Fraud investigator to discuss his transactions, but did not meet or respond to the request.
14. The respondent intentionally left his card and PIN with the convenience store personnel and he too violated SNAP laws and policies using his card for cash/and credit through that store.
15. Exchange of SNAP benefits for cash is considered Trafficking.
16. The respondent accrued benefits for the card ending in [REDACTED], totaling \$577.72 from the date of issuance, May 15, 2014 to the seizure of the card on August 1, 2014.
17. Trafficking of benefits for an aggregate amount of \$500 or more results in permanent ineligibility for participation in the SNAP program.
18. There is clear and convincing evidence, that the respondent did intentionally allow exchange of his EBT card and personal PIN for cash and credit and did intentionally commit fraud.
19. 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.
20. There is clear and convincing evidence that a Food Stamp benefit over-issuance of \$577.72 did occur on his EBT card ending in [REDACTED] from May 15, 2014 through April 1, 2014.

As a consequence, you, as head of household, are permanently sanctioned from participation in the SNAP Program, per 7 CFR273.16 (b)(4) which states in part:

*An individual convicted by a Federal, State, or local court of having trafficked benefits for an aggregate amount of \$500 or more shall be **permanently** ineligible to participate in the Program upon the first occasion of such violation.*

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

Be advised that a first time Trafficking violation results 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.