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May 1, 2015

Docket # 15-486

[REDACTED]  
Hearing Date: April 9, 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) POLICY: 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.

**REGULATIONS:**

**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 REGULATIONS: 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 April 9, 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 April 9, 2015. In accordance with 7CFR 273.16(e)(3) and Section 1034.25.10 of the DHS Regulations, the Agency provided at least thirty (30) days advance, in writing, of the scheduling of these hearings. The notices were sent by first class mail to the respondent's mailing address of record but returned to sender as "unable to forward." Per DHS regulations the hearing may still be held.

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 applied for and obtained RI SNAP benefits when she was already in receipt of benefits in the state of Florida. The Agency maintained that the respondent used both the Florida and the RI EBT cards simultaneously and at the same RI establishments.

#### **The Agency submitted into evidence:**

- A letter from the Office of Public Benefits Integrity Unit, Florida, dated January 26, 2015. The letter indicated receipt of a PARIS match for the respondent, and requested verification of the RI assistance time period.
- A copy of Florida Food Stamp Issuance history for the respondent, Case # ending in [REDACTED] and showing receipt of SNAP benefits for the period from January 3, 2014 through October 20, 2014.
- A copy of an EBT transaction summary received from the state of Florida (Fla) displaying card use from January 10, 2014 through January 1, 2015. The investigator noted that the respondent began using her Florida SNAP benefits in the state of RI on April 14, 2014. The investigator further noted that the respondent's Fla. SNAP benefits ended on October 20, 2014, although twelve Florida benefit inquiries continued between November 13, 2014 and January 1, 2015.
- A copy of the respondent's SNAP application (SNAP-APP-2) signed by the respondent and the DHS ET on April 24, 2014. The fraud investigator noted that the DHS ET reviewed the application with the respondent. She further called attention to Question #5, page two which asked, "Have you, or anyone applying with you, ever received SNAP/Food Stamps, Cash assistance, or medical assistance benefits from another state?" The respondent answered "Yes", and listed herself as receiving benefits in RI only from October 18, 2011 through January 1, 2014. The investigator also called attention to the respondent's signature on the application under the following- "Certifying under penalty of Perjury that I have read (or had read to me) and understand the Notice of Rights,

Responsibilities and that my answers are correct and complete to the best of my knowledge and belief.”

- A copy of RI and Florida EBT transactions which demonstrated simultaneous use of Fla. and RI EBT benefits at the same RI stores during the same time periods.
- A copy of an Agency F20 SNAP notice dated January 28, 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 \$432.01 in benefits used during the period from April 1, 2014, to October 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. The investigator noted that the notice was not returned as undeliverable, “therefore notice is presumed.”
- A copy of an Advance Notice of Administrative Disqualification Hearing letter dated March 10, 2015 and sent to the respondent’s address of record, informing her that a hearing was scheduled for April 9, 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. This notice was “returned to sender, not deliverable as addressed, unable to forward” on March 26, 2015.

The Agency representative testified that the fraud investigation commenced upon receipt of a January 26, 2015 Fax from the State of Florida (Fla.) Benefit’s Recovery Unit. The Fla. lead claims manager indicated he received a PARIS Match for the respondent, and requested verification of the assistance time period in RI. 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. She presented a summary of the respondent’s Fla. transactions which showed the respondent’s EBT use from January 10, 2014 through January 1, 2015. She submitted into evidence summaries of the respondent’s Fla. and RI EBT transactions which showed interchangeable use of the two cards at the same RI establishments from July 8, 2014 through October 16, 2014. She further testified that the respondent completed a RI SNAP application on April 24, 2014 and omitted to inform the RI DHS Agency that she was still receiving benefits in the State of Florida. As a result, she testified the respondent received approval based on fraudulent information. The fraud investigator testified that no individual may participate as a member of more than one SNAP household nor may any SNAP household participate in more than one state at the same time. The representative contends that the respondent purposely violated the SNAP regulations in her failure to report the Florida benefits she was still receiving. She further testified that the EBT transactions between April 1, 2014

and October 31, 2014 resulted in an over-issuance of SNAP benefits totaling \$432.01. 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 April 24, 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. A January 26, 2015 fax from the Florida (Fla.) Benefit Recovery Unit identified that a PARIS Match had been obtained for the respondent, Case # ending in [REDACTED]
3. A Fla. EBT transaction history shows that the respondent, Case # ending in [REDACTED] received Fla. SNAP benefits from January 10, 2014 through January 1, 2015.
4. Financial histories for four RI EBT card transactions and corresponding Fla EBT card transactions at the same RI establishments, between July 8, 2014 and October 16, 2014.

**CONCLUSION:**

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

1. The respondent was receiving SNAP benefits from the state of Florida from January 10, 2014 through January 1, 2015.
2. The respondent signed a RI SNAP application on April 24, 2014 and answered, "Yes" to receiving-SNAP, cash assistance, or Medical Assistance benefits from another state. She listed that state as RI and identified receipt between October 2011 and January 2014.
3. The respondent did not identify on the application that she was receiving benefits from another state-Florida.

4. Resulting from her fraudulent omission, the respondent was assessed for duplicate benefits for which she was not entitled.
5. The respondent was aware of her rights and responsibilities, and the penalty of Perjury when she signed the SNAP-APP2 on April 24, 2014.
6. The respondent used both the Fla. and the RI EBT cards interchangeably in RI, sometimes using one and then the other at the same establishments between July 8, 2014 and October 16, 2014.
7. The respondent did intentionally obtain RI SNAP benefits while enrolled in SNAP programs in another state in order to obtain benefits for which she was not entitled.
8. 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.
9. There is clear and convincing evidence that a Food Stamp benefit over-issuance did occur from April 1, 2014 through October 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.