

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Human Services  
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Docket #- 14-1387  
D.O.B. [REDACTED]  
Hearing Date: November 19, 2014

December 1, 2014  
[REDACTED]

**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 policy reference(s) were the matters before the hearing.

**A. THE DHS POLICY MANUAL:  
SECTION 1034 - INTENTIONAL PROGRAM VIOLATIONS**

The facts of your case, the agency, policy, 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, Lisa Vingi, Christine Messier, Betty Perez, William O'Donnell and Policy.

Present at the Food Stamp 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 Food Stamp Program violation by making a false statement, or by misrepresenting, concealing facts or withholding facts?

**DHS POLICIES:**

**INTENTIONAL PROGRAM VIOLATIONS**

Section 1034.15 of the Food Stamp Program Policy Manual states in part:

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 Food Stamp act, the Food Stamp program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt, or possession of food stamp coupons or EBT cards.

An Administrative Disqualification Hearing was convened on November 19, 2014 to examine the charge that the respondent had committed an Intentional Program Violation of Food Stamp Program regulation.

**The respondent failed to appear at the hearing.** In accordance with Section 1034 of the Food Stamp Policy manual, the agency provided at least thirty (30) days advance notice, in writing, of the scheduling of this hearing. The necessary notice was sent by first class mail to the respondent's address of record and was not returned.

In accordance with Food Stamp regulations, the hearing was conducted without the respondent present or represented. Even though the respondent was not present or represented, this hearing officer is nonetheless required to carefully consider the evidence and determine if an Intentional Program Violation had occurred. This hearing officer must find the evidence to be clear and convincing before a finding can be made that the respondent committed an Intentional Program Violation. If within ten (10) days of the issuance of this decision, the respondent presents good cause for failure to appear at the hearing, this hearing officer may conduct a new hearing and issue a new decision.

## DISCUSSION OF EVIDENCE

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

The agency representative, Lisa Vingi, in her opening statement, stated that [REDACTED] intentionally violated a program rule between 2-1-2014 and 8-31-2014. The appellant fraudulently received SNAP benefits for her Rhode Island household as she received SNAP benefits during the same time in the State of Connecticut.

The Agency representative testified that:

- The Agency representative stated that this case commenced upon receipt of an Electronic Claim Referral received in the Department of Human Services Fraud Unit on July 28, 2014. The Claim Referral states, "clt. active across board (MA also) in CT. Gave false statement on DHS-2 & forged letter re: RBEX/EATS/RESID." (COPY OF THE Electronic Claim Referral submitted).
- On or about July 14, 2014 Department of Human Services Eligibility Technician Michelle Boudreau received a completed PARIS Interstate Match Benefit History Request from the State of Connecticut. PARIS (Public Assistance Reporting Information System) is an interstate computer match which helps states share information on individuals receiving Public Assistance. This process entails comparing participating states' computer files

with one another, using individual's social security numbers to identify improper benefit payments to the same individual in more than one state.

- Information was provided on the PARIS Interstate Match Benefit History Request Form that [REDACTED] DOB: [REDACTED] 1980 and SSN: [REDACTED] has been receiving SNAP benefits in the State of Connecticut as of February 10, 2014 and was currently receiving SNAP benefits in the same state when the form was received in the Department of Human Services, which was July 14, 2014.
- The original PARIS Interstate Match Benefits History Request form was sent to the State of Connecticut on July 11, 2014. This form contained the incorrect social security number for [REDACTED]. On July 25, 2014 Department of Human Services Eligibility Technician Michelle Boudreau received information from the State of Connecticut containing the correct Social Security number for [REDACTED], which is [REDACTED]. [REDACTED] DHS Eligibility Technician Michelle Boudreau also received [REDACTED] Connecticut EBT transactions, in which she was spending her CT SNAP benefits in the State of Rhode Island. The transactions are as follows: 7-2-2014- Merchant is Hess, 764 Tiogue Avenue in Coventry, RI; 7-3-2014-Merchant is Shaw's, 801 Social Street in Woonsocket, RI; 7-3-2014- Merchant is Cumberland Farms, 261 South Main St. in Woonsocket, RI. (Copies of the PARIS verifications and Connecticut EBT History submitted).
- On or about July 14, 2014, [REDACTED] completed a Statement of Need Application requesting Cash and SNAP benefits for herself. In response to Question #1 on page 4 of the application where it states, "List everyone who lives in your home now." [REDACTED] lists herself, that she was pregnant, and friend [REDACTED]. Ms. [REDACTED] also submitted a letter signed by [REDACTED] stating, "[REDACTED] is going to be living with me for the remainder of her pregnancy. She is currently pregnant and homeless. She is obligated to pay me \$50.00 weekly, and take her own food."
- Michelle Boudreau, Department of Human Services Eligibility Technician reviewed the Statement of Need Application with [REDACTED] for completeness and accuracy. Ms. [REDACTED] signed and dated the Statement of Need Application on Page 27 "certifying under penalty of perjury that my answers are correct, and complete to the best of my knowledge and belief." (Copy of the Statement of Need Application along with the signed letter from [REDACTED] submitted to the record.)
- On or about July 24, 2014, [REDACTED] spoke to Department of Human Services Eligibility Technician Patrick Feeney regarding [REDACTED]. [REDACTED] informed Mr. Feeney that [REDACTED] never lived with her and the letter [REDACTED] submitted with the Statement of Need Application on July 14, 2014 was not signed by her. (Copy of Mr. Feeney's Witness Statement along with the case log dated July 24, 2014 summarizing Ms. [REDACTED] and Mr. Feeney's conversation submitted.)
- On or about August 14, 2014 DHS Fraud Investigator Lisa Vingi received [REDACTED] Connecticut SNAP Application dated February 10, 2014. On page 2 of the Connecticut SNAP Application [REDACTED] was asked, "Receiving Food Stamps in another State?" [REDACTED] answered "no". (Copy of the Connecticut SNAP Application dated February 10, 2014 submitted).
- I would also like to submit into record at this time [REDACTED] Rhode Island SNAP EBT history and Program Participation History which clearly shows that she was active and spending her Rhode Island SNAP benefits before she applied for SNAP in the State of Connecticut and she was actively receiving SNAP benefits in the State of Rhode Island continuously from July 29, 2013 through August 31, 2014.
- [REDACTED] address when she applied for SNAP benefits in the State of Rhode Island on July 29, 2013 is [REDACTED] in Woonsocket, RI [REDACTED]. Ms. [REDACTED] was

using PO Box [REDACTED] in Woonsocket as her mailing address. Also submitted with her application at that time was her Connecticut ID # [REDACTED] showing her address of [REDACTED] Dayville, CT 06241. (Copies of the EBT history, Program Participation History, a portion of the SNAP Application dated July 29, 2013 and a copy of the appellant's Connecticut Identification submitted).

- A SNAP notice was mailed to [REDACTED] to her address of record in the State of Connecticut: [REDACTED] Oneco, CT, [REDACTED] on August 14, 2014. The Notice was sent First Class Mail by the United States Postal Service. The Notice was not returned to the agency, therefore it is presumed delivered.
- The SNAP Notice included the "calculation of SNAP overpayment" and detailed the reason for overpayment, which is "you are receiving SNAP benefits in the State of Connecticut and Rhode Island at the same time and have been since February 10, 2014." The calculation sheet detailed the amount of SNAP benefits she received from February 1, 2014 through August 31, 2014 and the amount of SNAP benefits she should have received had she reported not living at [REDACTED] in Woonsocket with [REDACTED] and reported living at [REDACTED] in Oneco, CT. (Copy of the SNAP Notice dated August 14, 2014 submitted).
- An Advance Notice of Administrative Disqualification Hearing was mailed to Ms. [REDACTED] on October 14, 2014 to her address in Connecticut: [REDACTED] in Oneco CT. The Notice advised [REDACTED] that a hearing has been scheduled for November 19, 2014 at 9:30AM at the Department of Human Services, Providence Regional Family Center, 206 Elmwood Avenue in Providence, RI to examine the facts of her case. The Notice also notified [REDACTED] that DHS has reason to believe that she intentionally violated a SNAP Program Rule during February 1, 2014 through August 31, 2014 because she was receiving SNAP benefits in Rhode Island and Connecticut at the same time. (Copy of the Notice submitted.)
- [REDACTED] intentionally and purposely violated SNAP Regulations by receiving SNAP benefits in 2 separate states at the same time and should be found guilty of an Intentional Program Violation. It has been proven that [REDACTED] accessed both her Connecticut and Rhode Island SNAP benefits during the same months.
- The definition of an Intentional Program Violation is any action taken by an individual for the purpose of establishing or maintaining SNAP eligibility or for increasing or preventing a reduction in the allotment amount, which is committed knowingly, willfully, and/or with deceitful intent.
- [REDACTED] fraudulent activities should be considered an Intentional Program Violation, disqualifying her from participating in the SNAP Program for a period of ten(10) years, as it has been proven that she made a fraudulent statement with respect to her place of residency in order to receive multiple benefits simultaneously under the SNAP Program, and be required to repay \$1,323.00 in SNAP benefits she was not entitled to receive had she been truthful on her Statement of Need Application dated July 14, 2014 and informed the Department of Human Services that she was not living in the State of Rhode Island.

## FINDINGS OF FACT

1. The Rhode Island Department of Human Services Fraud Unit received an Electronic Claim Referral on July 28, 2014. The Claim Referral indicated that the appellant was active on SNAP benefits in the State of Connecticut and had received SNAP benefits in the amount of \$1512.00 during the period from January 1, 2014 through July 25, 2014

in the State of Connecticut. The referral indicates that the State of Connecticut has a claim of alleged fraud against the appellant for receipt of duplicate benefits.

2. The Rhode Island Department of Human Services received a completed PARIS Interstate Match Benefit History Request from the State of Connecticut on July 14, 2014. The Match Benefit History Request Form indicates that the appellant received SNAP benefits in the State of Connecticut as of February 10, 2014 and was currently receiving SNAP benefits there when the form was received by the Rhode Island Department of Human Services on July 14, 2014.
3. The agency submitted evidence that indicates the appellant used her Connecticut EBT card for SNAP transactions in Rhode Island during July 2014.
4. The agency submitted evidence consisting of a DHS Statement of Need Application from July 14, 2014 on which the appellant requested Cash assistance and SNAP benefits. The agency submitted evidence that the appellant actively received SNAP benefits in Rhode Island continuously from July 29, 2013 through August 31, 2014.
5. The appellant did not respond to an agency notice mailed on August 14, 2014 that notified her of the agency calculation of the overpayment of SNAP benefits that her household received from February 1, 2014 through August 31, 2014 totaling an overissuance amount of \$1,323.00 for that period.
6. The respondent, as an active Food Stamp recipient was aware of the penalty for not complying with Food Stamp rules. The respondent's signature on her Food Stamp application appears immediately below a statement, which, in relevant part reads as follows:

### III. FOOD STAMP PENALTY WARNINGS

I understand that:

1. Any member of my household who intentionally breaks a food stamp rule can be barred from the Food Stamp 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.

5. 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 identity or place of residency in order to receive multiple benefits simultaneously under the Food Stamp program would be disqualified for a ten (10) year period.

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

DO NOT trade or sell EBT cards.

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

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

#### IV. PENALTIES FOR PERJURY

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 attempts to obtain, 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 exceeds the amount previously reported.

Additionally, the DHS-2 informs the applicant/recipient that, " You have a RESPONSIBILITY to supply the Department with accurate information about your income, resources, and living arrangements". You have a RESPONSIBILITY for telling us immediately (within 10 days) of any changes in your income, resources, family composition, or other factors.

There is credible evidence that the appellant fraudulently obtained Food Stamp benefits by using her RI EBT benefits card while simultaneously receiving SNAP benefits as a resident of Connecticut during the dates noted above. The appellant therefore made a fraudulent representation with respect to her household location in order to receive multiple benefits simultaneously under the Food Stamp program.

#### CONCLUSIONS

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

1. That the respondent was aware of her rights and responsibilities upon affixing her signature to the DHS-2 Statement of Need Documents, including the responsibility to inform the Department of any changes in circumstance within 10 days of the change.
2. That there is clear and convincing evidence that the respondent did intentionally fraudulently misrepresent herself with respect to her residency in order to receive SNAP benefits to which her household was not entitled.
3. That there is clear and convincing evidence that the appellant made a fraudulent representation with respect to her state of residence in order to receive multiple benefits under the SNAP.
4. That there is clear and convincing evidence the respondent has, in fact, committed an Intentional Program Violation of the Food Stamp Program.

Therefore, this hearing officer finds that the Agency has met its burden of providing clear and convincing evidence that the appellant committed an intentional program violation. As a consequence, the appellant, as head of household, will not be eligible to participate in the

Food Stamp Program for ten (10) years. The Department's Claims, Collections, and Recoveries Unit is charged with the responsibility to secure restitution.

## **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.

Michael J. Gorman  
Administrative Disqualification Hearing Officer

## **APPENDIX**

RESPONSIBILITY OF THE CCR/FRAUD UNIT      1022.25  
REV: 07/2002

Upon receipt of an electronic referral of an overpayment of food stamp benefits, the CCR/Fraud Unit representative determines whether the referral is due to agency error, inadvertent household error, or appears to meet the definition of intentional program violation (IPV). As appropriate, prior to any investigation, the Unit verifies that the benefit was used. The amount of the claim is calculated based on the referral. The date that the final determination of the type of error is resolved is known as the discovery date.

Collection action may be postponed on any claim where referral for possible prosecution is being made because collection action will prejudice the case. RESPONSIBILITY OF THE CCR/FRAUD UNIT      1022.25

Collection action on an alleged IPV claim may be handled initially as an inadvertent household error claim based on the amount of, and the circumstances relating to, the claim until a determination of an intentional program violation is made at either an administrative disqualification hearing or, where appropriate, through the court.

Upon receipt of the referral and obtaining other evidence of alleged intentional program violation, the Fraud Manager assigns the case for investigation.

Upon completion of the investigation, from the facts presented and/or obtained, a decision is made to reclassify the claim, recommend the case for disqualification, or refer the case for prosecution through the Attorney General's Office. RESPONSIBILITY OF THE CCR/FRAUD UNIT 1022.25

If disqualification is recommended, an administrative disqualification hearing is initiated by forwarding the recommendation to the Administrative Disqualification Hearing Office for scheduling. (See Section 1034.)

When final disposition of the case is received from the Attorney General's office or the court, the CCR/Fraud Unit sends a copy to the Administrative Disqualification Hearing Office, which in turn informs the agency representative, either through the Regional Manager or Chief Supervisor of such disposition so that appropriate action(s), if indicated, takes place.

ADMINISTRATIVE RESPONSIBILITY 1034.05  
REV: 07/2002

The Claims, Collections, and Recoveries/Fraud Unit (CCR/Fraud Unit) is responsible for investigating any case of alleged intentional program violation and ensuring that appropriate cases are acted upon, either through administrative disqualification hearings or referral to a court of appropriate jurisdiction, in accordance with the procedures outlined in this section. Administrative disqualification procedures or referral for prosecution action must be initiated whenever there is sufficient documentary evidence to substantiate that an individual has intentionally committed one or more acts of intentional program violation as defined in Section 1034.15. If the CCR/Fraud Unit does not initiate administrative disqualification procedures or refer for prosecution a case involving an overissuance caused by a suspected act of intentional program violation, an inadvertent household error claim is established against the household in ADMINISTRATIVE RESPONSIBILITY 1034.05 accordance with the procedures in Section 1024.

The CCR/Fraud Unit refers the following situations for administrative disqualification hearings:

- \* Cases in which the facts do not warrant civil or criminal prosecution through the appropriate court systems;
- \* Cases previously referred for prosecution that were declined by the appropriate legal authority; and
- \* Cases which were previously referred for prosecution and where no action was taken within a reasonable period of time, and the referral was formally withdrawn by the unit.

The CCR/Fraud Unit must not initiate an administrative disqualification hearing against an accused individual whose case

ADMINISTRATIVE RESPONSIBILITY 1034.05  
is currently being referred for prosecution or subsequent to any action taken against the accused individual by the prosecutor or court of appropriate jurisdiction, if the factual issues of the case arise out of the same, or related, circumstances.

The CCR/Fraud Unit initiates administrative disqualification procedures or refers a case for prosecution regardless of the current eligibility of the individual.

CRITERIA FOR DETERMINING AN IPV 1034.15  
REV: 02/1985

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 or misleading statement, or misrepresented, concealed or withheld facts; or,
- \* Committed any act that constitutes a violation of the Food and Nutrition Act of 2008, as amended, 7 U.S.C. 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.

DISQUALIFICATION PENALTIES 1034.10  
REV: 06/2013

Disqualification penalties shall be imposed as follows:

1. Any member of a household that violates a SNAP rule can be barred from the Supplemental Nutrition Assistance Program for one year to permanently, fined up to \$250,000, imprisoned up to twenty (20) years or both. S/he may also be subject to prosecution under other applicable Federal and State laws. S/he may also be barred from the SNAP for an additional eighteen (18) months if court ordered. 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 a waiver of right to an administrative disqualification hearing shall be ineligible to participate in the program:

DISQUALIFICATION PENALTIES 1034.10  
\* 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 for the second violation, with the exceptions in numbers 2 and 3 below; and,
  - \* Permanently for the third occasion of any intentional program violation.
5. 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 identity or place of residence in order to receive multiple benefits simultaneously under the Supplemental Nutrition Assistance Program shall be ineligible to participate in the program for a ten (10) year period.

#### 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.