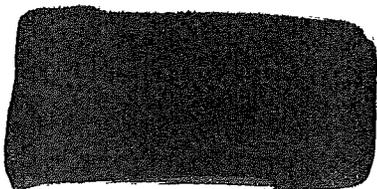


STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
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July 3, 2014

Docket # 14-700
DOB: 4/11/1987
Date of Hearing: June 18, 2014



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.

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

**R.I. DEPARTMENT OF HUMAN SERVICES (DHS) POLICY MANUAL: SNAP
SECTION 1034 - INTENTIONAL PROGRAM VIOLATIONS**

The facts of your case, applicable 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 (the respondent), and Agency representatives Lisa Vinggi, Christine Messier, Nancy Brennan, Cynthia Machado, Betty Perez, 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 7CFR.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 June 18, 2014 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 7CFR273.16(e)(3) and Section 1034.25.10 of the DHS Policy manual, the Agency provided at least thirty (30) days advance notice, in writing, of the scheduling of this hearing. The notice was sent by first class mail to the respondent's mailing address of record and has not been returned.

In accordance with 7CFR273.16(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 EVIDENCE

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

The Agency representative, in her statement, maintained that the respondent intentionally reported her income incorrectly when she applied for SNAP benefits in May 2013 and intentionally misrepresented her earned income by submitting altered pay stubs, thereby causing an over issuance of SNAP benefits for the time period from May 1, 2013 through September 30, 2013 in the amount of \$675.00.

The Agency representative submitted into evidence:

- An Electronic Claim referral panel. The panel indicated, "Per QC review, client fraudulent check stubs/verified/IPV overpaid."
- A copy of the respondent's SNAP application (SNAP-APP2) date stamped as being received by DHS on May 29, 2013, along with a copy of her R.I. drivers license, a copy of a receipt, and a copy of a notice of a SNAP intake telephone appointment scheduled for June 13, 2013. The Agency representative called attention to page 6 of the SNAP-APP2 where the respondent named her employer as Exeter Job Corps and reported monthly gross income of \$1,440.00 for 40 hours of work at \$9.00 an hour paid on a weekly basis. The Agency representative also called attention to page 13 of the SNAP-APP2 where the respondent affixed her signature and date of May 23, 2013.
- A copy of an Eligibility Technician's (ET) case log (CLOG) dated June 13, 2013, which documented the results of the telephone interview between him and the respondent.
- Copies of four pay stubs provided by the respondent dated May 4th, May 11th, May 18th, and May 25, 2013, all reporting weekly gross earnings of \$360.00.
- A copy of a QC-50 (Quality Control form) dated September 16, 2013, sent by the DHS Quality Control Reviewer to the respondent's employer and returned signed by the employer and date stamped by the Agency on October 21, 2013. The respondent's payroll information, requested by the QC reviewer for the time period from May 1, 2013 through July 31, 2013, was provided on an attached document and included pay periods, pay dates, hours worked, and gross pay. The document reported a gross pay of \$680.00 received on May 10, 2013, and \$580.00 on May 3, 2013, May 17, 2013, and May 24, 2013.
- A copy of an Agency F40 form-Witness Statement dated May 12, 2014, which provided the DHS SNAP ET's explanation of the circumstances surrounding the respondents SNAP application and SNAP approval, and signed by the DHS SNAP ET and the DHS Fraud investigator.
- A copy of an Agency F19 form-Calculation of SNAP Program Overpayment dated April 10, 2014, reporting the amount of SNAP benefits received by the respondent in the

months of May 2013 through September 2013, the amount of SNAP overpayment that occurred in each of those months, and the total SNAP overpayment of \$675.00.

- A copy of an Agency F20 SNAP notice dated April 10, 2013, addressed to the respondent and signed by Agency representative Lisa Vingi, informing the respondent of the alleged over-issuance of \$675 in benefits paid to her during the period from May 1, 2013 through September 30, 2013 as a result of fraudulent activity. Included with the notice was an Agency RIFS-121C form-Waiver of Right to Administrative Disqualification Hearing, which indicated that by signing the included Waiver Agreement form, she would be accepting a penalty of one year, as it was a first violation. Also included is an Agency DHS-155 form-Information About Administrative Disqualification Hearings.
- A copy of an Advance Notice of Administrative Disqualification Hearing form dated May 8, 2013, sent to the respondent's address, informing her that the hearing was scheduled for June 18, 2014 at 9am at the DHS Providence Regional Family Center.

The Agency representative testified that the fraud investigation commenced subsequent to a random quality control review. The DHS quality control reviewer requested verification of the respondent's job income from her employer for the time period from May 1, 2013 to July 31, 2013. Upon comparison of job income information provided by the employer and the pay stubs submitted by the respondent as part of her May 2013 application for SNAP benefits, discrepancies in the amount of gross earnings were noted, thereby indicating to the Agency that the paystubs had been altered by the respondent. The Agency testified they were unaware as to how the stubs had been altered, just that the information on the stubs was clearly different than the actual gross income that was reported by the employer. The Agency further testifies that based on the information provided by the respondent on and with her SNAP application, she was approved for SNAP benefits which she was not eligible to receive, resulting in an over issuance of benefits for the time period from May 1, 2013 through September 30, 2013 totaling \$675.00. The Agency representative contends that the Agency has demonstrated by clear and convincing evidence that the respondent has committed an Intentional Program Violation (IPV) and thereby requests that the respondent be sanctioned from participation in the SNAP program for a period of one year.

FINDINGS OF FACT

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

1. The respondent submitted by mail, a completed SNAP application (SNAP-APP2) signed on May 23, 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.

****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.

*Additionally, the SNAP-APP2 informs the applicant/recipient that, " **You have a RESPONSIBILITY** to supply the Department with accurate information and provide proof about your income, resources, and living arrangements".*

You have a RESPONSIBILITY to tell us immediately (within ten (10) days) of any changes in your income, resources, family composition, or any other changes that affect your household. For SNAP, if you are a simplified reporter, you must report when your income exceeds 130% of the Federal Poverty Level.

2. The SNAP-APP2 signed by the respondent on May 23, 2013, at Question #10 requested job income information. The document showed that the respondent answered that she was employed by Exeter Job Corp, received gross monthly wages in the amount of \$1,400.00, worked 40 hours per week, received an hourly wage of \$9.00 per hour, was paid weekly, and would receive her next paycheck on May 31st.
3. The respondent submitted copies of four weekly pay stubs as part of her SNAP application. The pay stubs are dated as being received on May 4, 2013, May 11, 2013, May 18, 2013, and May 25, 2013. All four pay stubs indicate an hourly rate of \$9.00 and a gross income of \$360.00.
4. The appellant was interviewed by a SNAP ET by telephone on June 13, 2013, at which time her SNAP-APP2 and submitted verification, was reviewed with her.
5. The appellant's employer reported that the appellant received weekly gross wages of \$680.00 on May 10, 2013, and weekly gross wages of \$580.00 on each of the dates of May 3, 2013, May 17, 2013, and May 24, 2013.
6. The information on the paystubs submitted by the respondent differs from the information provided by her employer as to pay period end dates, check dates, gross wages, and hours worked.
7. All four pay stubs submitted by the appellant have "SAMPLE" stamped boldly on them in several places. All four pay stubs also have "STUBSAMPLES.COM" stamped on them in several places.

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 upon affixing her signature to the SNAP-APP2 on May 23, 2013.
2. The respondent was employed and receiving earned income on a weekly basis when she signed the SNAP-APP2 on May 23, 2013.
3. The job income information provided to DHS by Exeter Job Corp is a true and accurate reflection of the hours worked and gross wages received by the respondent during the time period from May 1, 2013 through July 31, 2013.

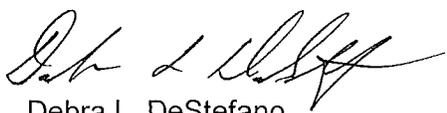
4. The four check stubs submitted by the respondent as part of her May 2013 SNAP application were not the actual paystubs she received from her employer, but were examples of paystubs obtained from a website, as evidenced by the stamp marks on them.
 5. The four paystubs submitted by the respondent as part of her May 2013 SNAP application did not accurately represent the income and/or paychecks she received from her employer during the month of May 2013.
-
6. The respondent did not accurately report her earned job when answering the question about job income on her May 2013 SNAP-APP2.
 7. The appellant received SNAP benefits during the time period from May 1, 2013 through September 30, 2013, which she was not entitled to receive.
 8. There is clear and convincing evidence that the respondent did intentionally misrepresent and make a false statement relative to her earned income to obtain SNAP benefits for which she was not entitled.
 9. The Agency has demonstrated by clear and convincing evidence, that the respondent has, in fact, committed an Intentional Program Violation of the Supplemental Nutrition Assistance Program.
 10. There is clear and convincing evidence that a SNAP benefit over-issuance did occur from May 1, 2013 through September 30, 2013.

As a consequence, you, as head of household, will not be eligible to participate in the SNAP Program for twelve months 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 program violation: a second would result in a twenty four month disqualification, and a third would result in a permanent sanction from the Food Stamp Program.



Debra L. DeStefano
Administrative Disqualification Hearing Officer