

STATE OF RHODE ISLAND
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES APPEALS OFFICE

RI DEPARTMENT OF HUMAN SERVICES

v.

DOCKET No. 24-1408

██████████

DECISION

I. INTRODUCTION

A telephonic hearing on the above-entitled matter was conducted by an Administrative Disqualification Hearing Officer on April 4, 2024. The Department of Administration, Office of Internal Audit, Fraud Unit (hereinafter “Agency”) on behalf of the Rhode Island Department of Human Services (hereinafter “DHS”) initiated this matter to an Administrative Disqualification Hearing to examine the charge that ██████████ (hereinafter “Respondent”) committed an Intentional Program Violation (hereinafter “IPV”) of the Supplemental Nutrition Assistance Program (hereinafter “SNAP”) regulations. The Agency argues that the Respondent failed to report her household’s earned income. The Agency is seeking that the Respondent be charged with an IPV for the period June 15, 2018, through May 31, 2022, and be disqualified from SNAP for a period of twelve (12) months. For the reasons discussed in more detail below, the Administrative Disqualification Hearing has been decided in the Agency’s favor.

II. JURISDICTION

The Executive Office of Health and Human Services (“EOHHS”) is authorized and designated by R.I.G.L. §42-7.2-6.1 and EOHHS regulation 210-RICR-10-05-2 to be the entity responsible for appeals and hearings related to DHS Programs. The Administrative Hearing was held in accordance with the Administrative Procedures Act, R.I.G.L. §42-35-1 et. Seq., and EOHHS regulation 210-RICR-10-05-2.

III. ISSUE

The issue is whether the Respondent committed a SNAP IPV by intentionally making a false statement, or by misrepresenting, concealing, or withholding facts to receive SNAP benefits she was not entitled to, in accordance with Federal and Departmental Policy as set forth below.

IV. STANDARD OF PROOF

The Administrative Disqualification Hearing Officer is required to carefully consider the evidence and determine by clear and convincing evidence if an IPV occurred. The Agency’s burden to support claims with clear and convincing evidence requires that they present clear, direct, and convincing facts that the Hearing Officer can accept as highly probable.

V. PARTIES AND EXHIBITS

Present for the Agency was Fraud Internal Auditor Tam Bernard (hereinafter “Auditor Bernard”) who investigated the Respondent’s SNAP case, and provided testimony based on the facts established in determining an IPV of the SNAP regulations. Also present for the Agency was DHS Deputy Chief Legal Counsel Iwona Ramian. The Agency offered the following evidence as exhibits at the hearing:

- Exhibit #1: The Respondent’s Employment & Income Reports from The Work Number include [REDACTED], and [REDACTED].

- Exhibit #2: Application for Assistance (DHS-2) for the Respondent requesting SNAP dated June 15, 2018.
- Exhibit #3: Case note from Eligibility Technician Patrick Feeney (hereinafter “ET Feeney”) dated June 15, 2018.
- Exhibit #4: Benefits Decision Notice (hereinafter “BDN”) dated June 15, 2018.
- Exhibit #5: BDN dated December 23, 2019.
- Exhibit #6: Recertification/Renewal Notice (hereinafter “SNAP Recertification”) dated April 1, 2021.
- Exhibit #7: BDN dated May 19, 2021.
- Exhibit #8: SNAP Six-Month Interim Report (hereinafter “SNAP IR”) signed November 25, 2021.
- Exhibit #9: Electronic Disqualified Recipient System (hereinafter “eDRS”) stating no previous SNAP disqualifications for the Respondent.
- Exhibit #10: Individual Household verification printout stating the Respondent’s household of one (1).
- Exhibit #11: Cited excerpts from the Rhode Island Code of Regulations for SNAP, 218 RICR 20-00-1 §1.5.2(A) and §1.9(C)
- Exhibit #12: An Important SNAP Notice (hereinafter “SNAP Packet”) dated January 6, 2024.

The Respondent did not attend the telephonic hearing. In accordance with 7 C.F.R. §273.16(e)(4) and 218-RICR-20-00-1, §1.22(K)(13), if the household member or its representative fails to appear at the hearing without good cause, the hearing is conducted without them.

VI. RELEVANT LAW and/or REGULATIONS

7 C.F.R. §273.16, entitled “Disqualification for Intentional Program Violation (IPV)” (c), defines an IPV as intentionally making a false or misleading statement, or misrepresenting, concealing, or withholding facts; or committing any act that constitutes a violation of SNAP, SNAP regulations, or any State statute “for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of SNAP benefits or EBT cards.” 7 C.F.R. §273.16(e)(6) requires the State Agency to determine whether there is clear and convincing evidence that an IPV occurred.

Similarly, the Rhode Island state counterpart to the federal regulations, 218-RICR-20-00-1 §1.9, entitled “Intentional Program Violations” provides that “The Office of Internal Audit 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. ...” It further provides that “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 (1) or more acts of intentional program violation as defined in §1.9(A)(3) of this Part.”

If there is a finding that an IPV occurred, the disqualification penalty for the first violation is one (1) year. Like its federal counterpart, the R.I. regulations require “clear and convincing evidence” that the household member(s) committed, or intended to commit, an IPV.

VII. FINDINGS OF FACT

1. Auditor Bernard testified that the Fraud Unit received a referral from DHS in December 2021, claiming the Respondent received SNAP benefits while not reporting her correct household income. As a result, an investigation commenced into the Respondent’s SNAP

case.

2. Auditor Bernard testified the Respondent's SNAP case consisted of herself, a household of one (1), and noted she is a Simplified Reporter (hereinafter "SR"). SNAP regulation 218-RICR-20-00-1 §1.13.1(A)(2)(a) states in part, "With the exception of the interim report and lottery/gambling winnings, a simplified reporting household's sole reporting requirement is to report changes in income which bring the household's gross income in excess of the gross income eligibility standard for that size household by the tenth (10th) day of the month following the month in which the change occurred."

3. Auditor Bernard cited SNAP Regulation 218-RICR-20-00-1 §1.5.2(A) that states in pertinent part, household income means all income from whatever source which includes earned income.

4. The Work Number verification shows the Respondent was hired at [REDACTED] on April 23, 2018, and received weekly paychecks from May 3, 2018, through August 16, 2018. She was terminated September 14, 2018.

5. The Work Number verification shows the Respondent was hired at [REDACTED] on December 7, 2020, and received biweekly paychecks from December 24, 2020, through October 1, 2021. She was terminated September 20, 2021.

6. The Work Number verification shows the Respondent was hired at [REDACTED] on September 21, 2021, and received weekly paychecks from October 8, 2021, through January 7, 2022. She was terminated December 25, 2021.

7. The Work Number verification shows the Respondent was hired at [REDACTED] on November 10, 2021, and received weekly paychecks from November 19, 2021,

through June 24, 2022. She was terminated June 12, 2022.

8. DHS received an application on June 15, 2018, from the Respondent, requesting SNAP for herself. Page 1 asks, "What is the total amount of income from any source (including unearned income such as Child Support, SSI, TDI, Unemployment, or SSDI, RSDI, etc.) you expect your household to receive this month?" The Respondent wrote "NA." She signed and dated the first page of the application on June 15, 2018, under the penalty of perjury statement. Page 7 Question 15 asks, "Do you or anyone in the household expect income from a job this month?" The Respondent did not list her income from Randstad in the blank chart. Pages 28 through 32 explain the RIGHTS, RESPONSIBILITIES, and the SNAP PENALTY WARNINGS. Specifically, "You have a RESPONSIBILITY to supply accurate information about your income, resources and living arrangements on this application." The SNAP PENALTY WARNINGS explain the consequences for intentionally breaking a SNAP rule, including being barred from SNAP from one (1) year to permanently. The Respondent signed the application on June 15, 2018, under the Penalty Warning that states in part that she understands "the questions on this application and the penalty for hiding or giving false information." She also attests that her answers on the application are correct and complete to the best of her knowledge.

9. ET Feeney interviewed the Respondent on June 15, 2018, based on the SNAP Application submitted, and she reported having no income.

10. A BDN dated June 15, 2018, was sent to the Respondent stating her SNAP benefits were renewed. Page 2 informs her of her SNAP benefits, eligibility period, and SNAP certification period. Page 2 states, "Changes You Must Report for SNAP: You must tell us if your household's gross monthly income (before taxes) is more than \$1,307. You must tell us no

later than 10 days after the end of the month when your income went up. You also need to fill out an interim report form. We will send you more information in August, 2018.” Pages 4 through 8 explain her RIGHTS, RESPONSIBILITIES, and the SNAP PENALTY WARNINGS. Specifically, “You have a RESPONSIBILITY to supply accurate information about your income, resources and living arrangements on this application.” The SNAP PENALTY WARNINGS state in part, that any member of a household who intentionally breaks a SNAP rule will be barred from SNAP from one (1) year to permanently. Additionally, it states, “DO NOT lie or hide information to get or continue to get SNAP benefits that your household should not get.”

11. Auditor Bernard testified that the Respondent was actively employed at the time she applied for SNAP, and during the interview with ET Feeney, receiving income as recent as June 10, 2018, from [REDACTED]

12. An additional BDN dated December 23, 2019, was sent to the Respondent, stating that her SNAP benefits were approved from December 11, 2019, through November 30, 2020, and informs her of the certification period. Page 3 states that the Respondent must report changes if her household’s gross monthly income (before taxes) exceeds \$1,354 no later than 10 days after the end of the month when her income went up. It further states she will need to fill out a SNAP IR, and that more information will be sent in April 2020. Pages 5 through 10 again explain her RIGHTS, RESPONSIBILITIES, and the SNAP PENALTY WARNINGS.

13. On May 19, 2021, DHS received the Respondent’s SNAP Recertification. Page 2 explains what is required to renew SNAP benefits. Page 5 asks “Income from Work”: “Below is the information we have about people in your household who have income from work. Please attach proof of income for the last 30 days, even if there are no changes. Is the information below

correct?" She did not check yes, or no. A blank chart was provided, and the Respondent wrote "N/A" even though she was working at [REDACTED]. The Respondent signed the SNAP Recertification on April 18, 2021, under the "penalty for perjury" attesting that her answers on the renewal form were correct and complete to the best of her knowledge, and that she understood she is breaking the law if she purposely gives wrong information and can be punished under federal law, state law, or both. Auditor Bernard testified the Respondent was actively employed at [REDACTED] during the time she submitted the SNAP Recertification, and she withheld this information from DHS.

14. A BDN dated May 19, 2021, was sent to the Respondent, stating her benefits were renewed as of June 1, 2021, through May 31, 2022, and informs her of the SNAP certification period. Page 2 again informs her of the changes that must be reported for SNAP, specifically, to report if her household's gross monthly income before taxes is more than \$1,383, no later than 10 days after the end of the month when the income increased. She also will be sent more information about filling out a SNAP IR in October 2021. Pages 3 through 8 again explain her RIGHTS, RESPONSIBILITIES, and the PENALTY WARNINGS. The BDN also clearly states "DO NOT lie or hide information to get or continue to get SNAP benefits that your household should not get."

15. Auditor Bernard testified the Respondent started employment at [REDACTED] on September 21, 2021, and she was terminated December 25, 2021. On October 1, 2021, she received her final paycheck from [REDACTED]. He further testified that she started employment at [REDACTED] on November 10, 2021, and was terminated June 12, 2022. The

Respondent failed to report any of these changes to DHS.

16. DHS received the Respondent's SNAP IR on December 3, 2021. Page 3 states "provide the following information for any person in your household who has any income from working. You must include proof of income for the past thirty days, e.g., paycheck stubs or, if self-employed include signed statements of gross earnings and self-employment expenses." She again wrote "NA" in the household income chart provided. The Respondent signed her SNAP IR on November 25, 2021, certifying that her answers were correct, under "penalty of perjury."

17. Auditor Bernard cited 218-RICR-20-00-1 §1.9(C) that states in part, "Intentional Program violations shall consist of having intentionally as defined in 7 C.F.R. §273.16(c): (1) Made a false or misleading statement, or misrepresented, concealed or withheld facts; or ...".

18. Auditor Bernard testified that the Respondent failed to inform DHS of her correct household income when she was required to do so, on her SNAP Application, when she had changes in income, on her SNAP Recertification, and on her SNAP IR. Accordingly, the Respondent committed an IPV and received SNAP benefits she was not entitled to.

19. On January 4, 2024, Auditor Bernard logged into eDRS to determine the Respondent's SNAP disqualification period which showed that the Respondent had no previous SNAP disqualifications; therefore, this is the Respondent's first violation, and the Agency is pursuing a twelve (12) month disqualification from SNAP.

20. A SNAP Packet dated January 6, 2024, was mailed to the Respondent at [REDACTED]. The SNAP Packet included the alleged fraudulent activity, time frame it occurred, the opportunity to dispute the charge and/or sign and return the waiver by January 16, 2024. The SNAP Packet also included the Waiver of Right to Administrative Disqualification Hearing, the proposed penalty period, and the Waiver

Agreement. The SNAP Packet states that the Respondent is being charged with committing an IPV on June 15, 2018, through May 31, 2022, because of "Unreported Earned Income."

VIII. DISCUSSION

The Agency maintains the Respondent intentionally failed to report her correct household income on her SNAP Application, at her SNAP interview, on her SNAP Recertification and SNAP IR, knowing the penalties of perjury. The BDNs clearly informed her of the income reporting requirements, her Rights, Responsibilities, and the SNAP Penalty Warnings. The Agency argues the Respondent intentionally provided false information, concealed information, and otherwise failed to report her earned income on numerous occasions until her SNAP closed on May 31, 2022. Therefore, the evidence is clear that the Respondent committed an IPV from June 15, 2018, through May 31, 2022, and should be disqualified from SNAP for a period of twelve (12) months.

The record consists of testimony and evidence from the Agency. The evidence establishes that DHS received the Respondent's completed SNAP Application on June 15, 2018, requesting benefits for herself. The Work Number verified she started employment at [REDACTED] on April 23, 2018, and was being paid weekly at the time of the application through August 16, 2018. The application clearly asked for income information, but she failed to report her income. The Respondent signed the application under the penalties of perjury after being informed of her Rights, Responsibilities, and the SNAP Penalty Warnings, which includes her responsibility to supply accurate information about her income and the penalty for intentionally breaking a SNAP rule. The Respondent then failed to report her income at her SNAP interview and upon receipt of her BDN dated June 15, 2018. The BDN also informed the Respondent as a SR she must report her gross monthly income if it exceeds \$1,307 no later than 10 days after the end of the month

when the income went up pursuant to 218-RICR-20-00-1 §1.13.1(A)(2)(a). The Work Number verification shows her income for June, July, and August were clearly over the income limit. The BDN further informed her of her Rights, Responsibilities, and SNAP penalty warnings.

The Respondent was sent another BDN on December 23, 2019, informing her as a SR that she must report if her gross monthly income exceeds \$1,354 no later than 10 days after the month in which the income went up. At this time, the Respondent was not working.

Subsequently, The Work Number verification shows the Respondent started a new job at [REDACTED] on or about December 7, 2020, receiving her first paycheck on December 24, 2020, for \$1520.00. As a SR, this income should have been reported by January 10, 2021. The Respondent was again clearly informed of the reporting requirements, her Rights and Responsibilities, and the SNAP Penalty Warnings.

The Respondent then submitted her SNAP Recertification, signed on April 18, 2021, under the “penalty of perjury,” failing to include her income from [REDACTED] in the charts provided, instead writing “NA.” After her SNAP recertification was approved, a BDN was sent to the Respondent on May 19, 2021, again stating the changes that must be reported, specifically if her gross income exceeds \$1383, and the timeline for reporting the change. The Respondent’s income based on The Work Number verification continued to be over the income limit.

The Respondent continued to disregard the income reporting requirements upon submission of her SNAP IR signed on November 25, 2021. The SNAP IR clearly states that proof of income from the last thirty (30) days must be included. The Work Number verification shows her last [REDACTED] paycheck was received October 1, 2021, but she also started at [REDACTED] on September 21, 2021, and [REDACTED] on November 10, 2021. The Respondent was over the income limit thereafter until her SNAP closed May 31, 2022.

Based on the above, the Respondent was required to report her earned income on numerous occasions pursuant to 218-RICR-20-00-1 §1.5.2(A) and as a SR who is required to report changes in income pursuant to 218-RICR-20-00-1 §1.13.1(A)(2)(a). The Respondent was informed of the Penalties for Perjury, her Rights, Responsibilities, and the SNAP Penalty Warnings as required, but she continuously failed to report her income. Therefore, the Respondent intentionally provided false information, concealed information, and otherwise intentionally failed to report her income from [REDACTED], and [REDACTED]. Accordingly, there is clear and convincing evidence that the Respondent committed an IPV initially on June 15, 2018, and continued through her closure on May 31, 2022. For imposing a disqualification penalty, 7 C.F.R. 273.16(e)(8), states in part: "The same act of intentional program violation repeated over a period of time must not be separated so that separate penalties can be imposed." The Respondent violated SNAP regulations 218-RICR-20-00-1 §1.9(C)(1) and 7 C.F.R. 273.16(e)(1), that define an IPV.

IX. CONCLUSIONS OF LAW

After careful review of the testimony and evidence presented at the Administrative Disqualification Hearing, this Administrative Disqualification Hearing Officer concludes:

1. The Respondent failed to accurately report her earned income to DHS on her June 15, 2018, SNAP Application and at her SNAP interview with DHS. The Respondent was aware of the Penalty of Perjury, her Rights, Responsibilities, and the SNAP Penalty Warnings by signing the application.

2. The Respondent was aware of the Simplified Reporting requirements, her Rights, Responsibilities, and the SNAP Penalty Warnings, upon receipt of the June 15, 2018, BDN, but still failed to report her income from Ranstad. An additional BDN was also sent to the

Respondent on December 23, 2019, again informing her of her reporting requirements, Rights, Responsibilities, and the SNAP Penalty Warnings.

3. The Respondent as a SR failed to report her new income from [REDACTED] on January 10, 2021, when she exceeded the gross income limit in December 2020. The Respondent continued to work at [REDACTED] but failed to report it on her Recertification, and after receiving her BDN, both dated May 19, 2021. The Respondent was aware of her reporting requirements, her Rights, Responsibilities, and the SNAP Penalty Warnings.

4. The Respondent as a SR failed to report changes to her income when she was employed at [REDACTED] from September 21, 2021, through December 25, 2021, and [REDACTED] from November 10, 2021, through June 12, 2022. The Respondent again disregarded her SNAP reporting requirements on her SNAP IR dated December 3, 2021. The Respondent signed under the Penalties for Perjury statement attesting that her answers on the form were correct and complete to the best of her knowledge.

5. The Agency has demonstrated by clear and convincing evidence that the Respondent knowingly failed to report her earned income. Therefore, the Respondent intentionally misrepresented, concealed, or withheld facts pertinent to her SNAP case.

6. The Agency has demonstrated by clear and convincing evidence that the Respondent committed an IPV of the SNAP Regulations from June 15, 2018, through May 31, 2022, based on unreported income.

7. Consequently, the Respondent, as head of household, will not be able to participate in SNAP for twelve (12) months per 7 C.F.R. 273.16(b)(1)(i); SNAP Regulations 218-RICR-20-00-1§1.9(A)(3)(c)(1), which states in pertinent part: Individuals found to have

committed an IPV through an Administrative Disqualification Hearing shall be ineligible to participate in the program for a period of one (1) year as this is the first IPV.

X. DECISION

Based on the foregoing Findings of Fact and Conclusions of Law, it is found that a final order be entered that the Agency's request for an IPV against the Respondent for twelve (12) months is granted based on her failure to disclose income.

AGENCY'S INTENTIONAL PROGRAM VIOLATION CHARGE IS GRANTED

/s/ Lori Stabile

Lori Stabile

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.

CERTIFICATION

I hereby certify that I mailed, via regular mail, postage prepaid, a true copy of the foregoing to [REDACTED]; copies were sent, via email, to Tam Bernard, Kimberly Seeback, Brittany Badway, Iwona Ramian Esq., Denise Tatro, Bethany Caputo, and the DHS Policy Office at DHS.PolicyQuestions@dhs.ri.gov on this 13th day of May, 2024.

