

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

Department of Human Services

v.

██████████

DOCKET No. 24-1414

DECISION

I. INTRODUCTION

A telephonic hearing on the above-entitled matter was conducted by an Administrative Disqualification Hearing Officer on April 8, 2024 at 9:00 a.m. The Department of Administration, Office of Internal Audit, Fraud Unit (hereinafter “Agency”), on behalf of the Department of Human Services (hereinafter “DHS”), initiated this matter for an Administrative Disqualification Hearing to examine the charge against ██████████ (hereinafter “Respondent”), had committed an Intentional Program Violation (hereinafter “IPV”) of the Supplemental Nutrition Assistance Program (hereinafter “SNAP”). The Agency argues that the Respondent failed to report when his unearned income exceeded the 130% FPL in the month of April 2020 and again on his recertification for SNAP in June 2020, where he reported no income at all (earned or unearned) to DHS per the requirements. Due to the above reason(s), the Agency is seeking that the Respondent be charged with an IPV for the period May 11, 2020, through February 28, 2021, and be disqualified from SNAP for a period of one (1) year. For the reasons discussed in more detail below, the Administrative Disqualification Hearing has been decided in favor of the Agency.

II. JURISDICTION

The Executive Office of Health and Human Services (hereinafter “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 that he 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 were Tam Bernard, Fraud Internal Auditor (hereafter “Auditor Bernard”), who investigated the Respondent’s case and provided testimony based on the facts

established in determining an IPV of the SNAP regulations. The Agency offered the following evidence as exhibits at the hearing and they were entered into the record of hearing:

- Exhibit #1: Unemployment verification printout from the Rhode Island Department of Labor and Training (hereinafter “RI DLT”) from January 26, 2020 through September 5, 2021.
- Exhibit #2: Benefit Decision Notice (hereinafter BDN”) dated August 27, 2019.
- Exhibit #3: Recertification form for SNAP signed by the Appellant on June 8, 2020.
- Exhibit #5: BDN dated June 18, 2020.
- Exhibit #6: Electronic Disqualified Recipient System (hereafter “eDRS”) report.
- Exhibit #7: RI Bridges Individual Household printout showing that this is a household of one (1).
- Exhibit #8: Printout of select regulations that outlines reporting regulations, definition of an IPV.
- Exhibit #9: DOA SNAP packet, including waiver.

The Respondent did not appear for the scheduled 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 the Respondent present. The hearing commenced at 9:12 a.m. without the Respondent present or represented.

VI. RELEVANT LAW/REGULATIONS

7 C.F.R. §273.16 (c), entitled “Disqualification for Intentional Program Violation (IPV)”, defines an IPV as intentionally making false or misleading statements, 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.” To determine whether an intentional program violation has occurred, 7 C.F.R. §273.16(e)(6), requires the State Agency to conduct an administrative disqualification hearing and to determine whether there is clear and convincing evidence that an IPV occurred.

Similarly, Rhode Island State counterpart, 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 violation as defined in §1.9(A)(3) of this Part.”

If there is a finding that there was an IPV, the disqualification penalty for the violation is one (1) year for the first violation (7 C.F.R. §273.16(b)(1)(i) and 218-RICR-20-00-1.9(A)(3)(a)). Like it’s Federal counterpart, Rhode Island requires “clear and convincing evidence” that the household member(s) committed, or intend to commit, an IPV. Furthermore, 7 C.F.R. § 273.16(b)(8)(i) 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.”

VII. FINDINGS OF FACT

1. Auditor Bernard testified that the Fraud Unit received a Fraud referral from DHS claiming that the Respondent did not report his Unearned Income when it exceeded 130%

of the FPL and again when he failed to report any income at all (earned or unearned). As a result, he commenced an investigation of the Respondent's SNAP case.

2. The SNAP household consists of one (1), the Respondent only.
3. Auditor Bernard testified that the Respondent is a Simplified Reporter pursuant to SNAP Regulation 218-RICR 20-00-1 §1.13.1(A)(2)(a), therefore he is required to report to DHS any changes to his income that exceed 130% of the FPL within ten (10) days after the last day of the month in which his income exceeded 130% of the FPL.
4. Auditor Bernard cited SNAP Regulation 218-RICR-20-00-1§1.5.2(A) that states "Household income includes all earned income as well as unearned income. Unearned income includes annuities, pensions, retirement, Veteran's or disability benefits, Worker's or other Unemployment Insurance, Social Security benefits, including the SMI amount, or strike benefits. 218-RICR-20-00-1.5.2.A.2a(2). Ex. # 8.
5. On or about August 27, 2019, a BDN was sent to the Respondent's address of record. The Respondent's household was awarded \$26.00 for the month of August 2019, \$192.00 for the month of September 2019, and \$194.00 for period October 1, 2019 through August 31, 2019, at which time the household would be required to complete the Recertification process. Page three (3) states "You must tell us if your household's gross monthly income (before taxes) is more than \$1316. You must tell us no later than 10 days after the end of the month when your income went up." Page 9 states, in part, "**DO NOT lie or hide information to get or continue to get SNAP benefits that your household should not get**". Ex. #2.
6. The Respondent was collecting unemployment benefits from January 26, 2020 through September 5, 2021. This was verified through a DHS interface with DLT. Ex. #1.

7. On June 11, 2020, the Respondent submitted a Recertification to DHS. Page 1 indicates his name and address of record, as well as instructions for completing the form. It instructs the Respondent to review the information on the form, cross out any information that is incorrect and write the correct information, providing documentation as needed to verify the changes. Page 6 asks if there is any current earned income and page 7 asks if there is any unearned income. On both of these sections, the Respondent wrote in that there was no earned income or unearned income and that the total amount received in each section was written "0" (to mean zero income), to show again that he was not receiving income of any kind. Ex. #3.
8. On June 8, 2020, the Respondent signed his Recertification for SNAP. The Respondent signed the Recertification under the penalty warning statement certification statement, which states in part "Under penalty of perjury, I attest that all of my answers on this renewal form are correct and complete to the best of my knowledge....I understand that I am breaking the law if I purposely give wrong information and can be punished under federal law, state law, or both. Ex. #3.
9. Case notes by a DHS Eligibility Technician dated June 18, 2020, states in part "reached client; says he's still homeless and gave new mailing address, says no income, no unemployment or SSI income, no rent or expenses....case approved.". Auditor Bernard testified that this information was gathered during the Respondents Recertification interview. It is clear that the Respondent was collecting Unemployment benefits when he submitted his SNAP Recertification and he failed to report this information. Ex. #3.
10. On or about June 18, 2020, A BDN was sent to the Respondent's address of record. The Respondent's household was awarded \$194.00 for the period August 1, 2019 through

July 31, 2020. Page two (2) states “You must tell us if your household’s gross monthly income (before taxes) is more than \$1354. You must tell us no later than 10 days after the end of the month when your income went up. Pages 7- 8 outline the Respondents’ rights and responsibilities, and page 8 specifically states, in part, **“DO NOT lie or hide information to get or continue to get SNAP benefits that your household should not get”**. Ex. #5.

11. 218-RICR-20-00-1.C(1) states in part, “Intentional Program violations shall consist of having intentionally as defined in 7 C.F.R. §273.16(c): Made a false or misleading statement, or misrepresented, concealed, or withheld facts.” Auditor Bernard testified the Respondent received SNAP benefits that he was not eligible from May 11, 2020 through February 28, 2021.
12. On January 3, 2024, Auditor Bernard logged into the eDRS to determine the Respondent’s SNAP disqualification period. The query indicated the Respondent had no previous disqualifications. Therefore, this is the Respondent’s first (1st) violation, and the Agency is pursuing a one (1) year disqualification from SNAP pursuant to 218-RICR-20-00-1.9 (A)(3)(c)(1) and 7 C.F.R. §273.16(b)(1)(i).
13. On January 5, 2024, a SNAP packet was sent by DOA to the Respondent’s address of record, [REDACTED]. Auditor Bernard testified that he later located an updated mailing address and on February 2, 2024, he mailed another SNAP packet to that address, [REDACTED]. The SNAP packet states the violation period, reason, and disqualification penalty. A response to that Notice was requested by February 27, 2024. Also included with the notice is the Waiver of Right to Administrative Disqualification Hearing and Waiver Agreement. In

accordance with 7 C.F.R. § 273.16 (e)(3) and 218-RICR-20-00-1, § 1.22 K (6), EOHHS provided at least thirty (30) days advance notice, in writing of the scheduling of the disqualification hearing.

14. Auditor Bernard testified that he called the telephone number of record, 401-225-8526 on January 16, 2024 and was unable to reach the Respondent. A voice mail was left to explain the SNAP packet. There was no response to that voice mail.

15. VIII. DISCUSSION

The Agency maintains that the Respondent intentionally failed to report when his unearned income exceeded the 130% FPL in April 2020, and again at the time of Recertification in June 2020, despite receiving two (2) BDN's, all of which informed him of his duty to report to DHS. On the June 8, 2020 Recertification, the Respondent reported that he had no earned or unearned income, and he signed under the Penalty Warning that he attested that his answers were correct and complete to the best of his knowledge, and that he is breaking the law if he purposefully gives wrong information. The Agency argues that the evidence is clear and convincing that the Respondent committed an IPV from May 11, 2020, through February 28, 2021, and should be disqualified from participation in the SNAP program for a period of one (1) year.

The record consists of evidence and testimony from the Agency. The evidence establishes that the Respondent received a BDN dated August 27, 2019, for his eligibility from August 27, 2019, through July 31, 2020, the Respondent was advised that he would continue to receive benefits through the month of July 31, 2020, and he will need to recertify. That BDN specifically states "You must tell us if your gross monthly income (before taxes) is more than \$1316. You must tell us no later than 10 days after the end of the month in which your income

went up.” In the month of April 2020, the Respondents’ unearned income from Unemployment Benefits was \$3402.00 and he failed to report this to DHS.

The evidence also establishes that DHS received the Respondent’s completed SNAP Recertification and had a required Recertification interview with the Respondent on June 18, 2020, at which time he did not report any income, unemployment or SSI income. He also reported on his Recertification, in writing, that his earned income was \$0.00, and his unearned income was \$0.00. Subsequently, based on this information, a BDN was mailed to him on or about June 18, 2020, indicating that his SNAP benefits were being renewed. The BDN further states the “Changes You Must Report” and goes on to state “You must tell us if your household’s gross monthly income (before taxes) is more than \$1354. You must tell us no later than 10 days after the end of the month when your income went up.” The Agency argued that the Respondent failed to report his unearned income, specifically unemployment benefits, both on the Recertification that he signed and again at the time of his interview. In review of the Simplified Reporter regulation 218-RICR-20-00-1 §1.13.1(A)(2)(a) “Ongoing Case Management”, “Simplified Reporters” as cited by the Agency states in part, with the exception of an interim report, “a simplified reporting household’s sole reporting requirement is to report changes in income which brings the household’s gross income in excess of the gross eligibility income standard for that household by the tenth (10th) of the month following the month in which the change occurred...” Both the BDN dated August 27, 2019, as well as the BDN dated June 18, 2020, clearly explained his RIGHTS, RESPONSIBILITIES, and the SNAP PENALTY WARNINGS.

The Respondent’s gross monthly income based on RI DLT records from January 26, 2020, through September 5, 2021, clearly show that the Respondent exceeded the income limit

of \$1316.00 from April 2020 through July 2020, but not in the months of August 2020 through November 2020. He failed to report any income at all on his Recertification signed on June 8, 2020, even though he was receiving unemployment benefits. He was again over the income limit in September 2020, December 2020, and January 2020 through February 2020, at which time the unemployment income was discovered on a RI DLT interface and his SNAP benefits were terminated. He was not over the income limit of \$1354.00 in the months of August 2020, October 2020, through November 2020, or January 2021.

The Respondent was required to report all income per 218-RICR-20-00-1 §1.5.2. which states, in pertinent part, that household income means all income from whatever source, including unearned income. The Respondent failed to report his unearned income on his Recertification, at his Recertification interview, upon receipt of either the BDN dated August 27, 2019 or the subsequent BDN dated June 18, 2020. He also failed to report when his income exceeded \$1316.00 as instructed on the BDN dated August 27, 2019. The Respondent was informed of the Penalties for Perjury, his Rights and Responsibilities, and the SNAP Penalty Warnings. Therefore, the Respondent intentionally provided false information, concealed information, and otherwise intentionally failed to report his unearned income from unemployment. Accordingly, there is clear and convincing evidence that the Respondent committed an IPV on May 10, 2020, when he did not report that his gross monthly income exceeded the income limit of \$1316.00 for the month of April 2020. The Respondent violated SNAP Regulations 218-RICR-20-00-1, §1.9©(1) and 7 C.F.R. §273.16©(1), that defines an IPV. Although the Agency requested an IPV period of May 11, 2020, through February 28, 2021, there is only clear and convincing evidence to prove an IPV for periods May 11, 2020, through July 2020; September 2020; December 2020, through February 28, 2021.

IX. CONCLUSION OF LAW

After careful review of the testimony and evidence presented at the Administrative Hearing, it is clear that:

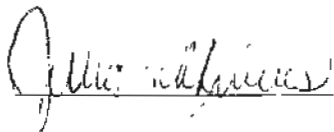
1. The Respondent failed to report to DHS his true household's unearned income at the time that he exceeded the income limit of \$1316.00, as instructed on the BDN dated August 27, 2019, and again at the time of his Recertification that he signed on June 8, 2020, as well as the interview with a DHS Eligibility Technician that was conducted on June 18, 2020. The Respondent signed and dated the SNAP Recertification under the Penalty Warning, attesting that his answers were correct and true to the best of his knowledge.
2. The Respondent was aware of his reporting requirements upon receipt of the BDN that was dated August 27, 2019, which clearly stated that if his income exceeded \$1316.00, he was required to report to DHS no later than ten (10) days after the end of the month when his income went up. The Respondent was also informed of his reporting requirements on the BDN dated June 18, 2020.
3. The Agency has demonstrated by clear and convincing evidence that the Respondent knowingly failed to report when his income exceeded the income limit of \$1316.00 in April 2020, and that he intentionally concealed information regarding his income on his Recertification signed on June 8, 2020. Therefore, the Respondent intentionally misrepresented, concealed, or withheld facts pertinent to his SNAP case.
4. 7 C.F.R. § 273.16(b)(8)(i) 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."

5. Consequently, the Respondent, as head of the household, will not be able to participate in SNAP for one (1) year 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, Conclusions of Law, evidence, and testimony it is found that a final order be entered that the Agency’s request for an IPV against the Respondent for one (1) year is granted.

AGENCY’S INTENTIONAL PROGRAM VIOLATION CHARGE IS GRANTED.



Jillian R. Rivers

Appeals Officer

NOTICE OF APPELLANT 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 [REDACTED]
[REDACTED]; copies were sent, via email, to
DOA Representatives Tam Bernard, Kimberly Seebeck, Brittney Badway; and DHS
representatives, Denise Tatro, Bethany Caputo, Iwona Ramian, Esq., and
DHS.PolicyQuestions@dhs.ri.gov on this 9th day of
May, 2024.

Simona M. Leuzell