

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

RI DEPARTMENT OF HUMAN SERVICES

v.

DOCKET No. 24-2266

████████████████████

DECISION

I. INTRODUCTION

A telephonic hearing on the above-entitled matter was conducted by an Administrative Disqualification Officer on May 20, 2024. The Department of Administration, Office of Internal Audit, Fraud Unit (“Agency”) on behalf of the RI Department of Human Services (“DHS”) initiated this matter to an Administrative Disqualification Hearing to examine the charge that ██████████ (“Respondent”) committed an Intentional Program Violation (“IPV”) of the Supplemental Nutrition Assistance Program (“SNAP”) regulations. The Agency argues that the Respondent did not report earned income. The Agency is seeking that the Respondent be charged with an IPV for the period January 31, 2017, through October 31, 2019, 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 Brittney Badway, (“Auditor Badway”) who investigated the Respondent’s SNAP 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:

- Exhibit #1: [REDACTED]
[REDACTED] payroll for the Respondent’s daughter.
- Exhibit #2: Benefit Decision Notice (“BDN”) dated January 3, 2019.

- Exhibit #3: SNAP Six-Month Interim Report (“SNAP IR”) dated May 8, 2019.
- Exhibit #4: SNAP IR dated May 8, 2019, and BDN dated June 20, 2019.
- Exhibit #5: Case note from Eligibility Technician Miranda Glennon (“ET”) dated July 9, 2019.
- Exhibit #6: Electronic Disqualified Recipient System (“eDRS”) stating no previous SNAP disqualifications for the Respondent.
- Exhibit #7: Individual Household verification printout stating the Respondent’s household of three (3).
- Exhibit #8: Cited excerpts from the RI Code of Regulations for SNAP 218 RICR 20-00-1 § 1.5.2.(A), §1.13.1(A) and §1.9(C).
- Exhibit #9: An Important SNAP Notice (“SNAP Packet”) dated February 22, 2024, mailed to [REDACTED]
- Exhibit #10: An Important SNAP Notice (“SNAP Packet”) dated February 22, 2024, mailed to [REDACTED].
- Exhibit #11: Email correspondence from Auditor Badway to the Respondent dated March 8, 2024.
- Exhibit #12: Email correspondences from Respondent to Auditor Badway dated March 18, 2024, time stamped 10:08pm.
- Exhibit #13: Email correspondences from Respondent to Auditor Badway dated March 18, 2024, time stamped 10:18pm.
- Exhibit 14: Email correspondence from Auditor Badway to the Respondent dated March 28, 2024.

The Respondent, [REDACTED] 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), the hearing was conducted without the Respondent present or represented.

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 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.” 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, the Rhode Island regulation 218-RICR-20-00-1 §1.9, entitled “Intentional Program Violations” (A) provides that the Office of Internal Audit is responsible for investigating any case of alleged intentional program violation and ensuring the appropriate cases are acted upon through an Administrative Disqualification Hearings whenever there is sufficient documentary evidence to substantiate that an individual has committed IPV. Like its federal counterpart, the R.I regulation §1.9(B) requires that “clear and convincing evidence” demonstrates that the household member(s) committed or intended to commit an IPV, as defined in §1.9(C).

Per Rhode Island regulation 218-RICR-20-00-1 §1.9(A)(3)(c)(1), and Federal Regulation 7 C.F.R. §273.16(b)(1)(i), if there is a finding that an IPV occurred, the disqualification penalty for the first violation is one (1) year.

VII. FINDINGS OF FACT

1. Auditor Badway testified that the Fraud Unit received a referral from DHS on January 2, 2020, claiming that the Respondent received SNAP benefits while not reporting her correct household income. As a result, an investigation commenced into Respondent's SNAP case.

2. Auditor Badway testified the Respondent's SNAP case consists of herself, her adult daughter and grandson, a household of three (3), and noted she is a Simplified Reporter ("SR") pursuant to 218-RICR-20-00-1.1.8(A).

3. SNAP Regulation 218-RICR-20-00-1.13.1 Ongoing Case Management, Changes specifically, (A)(2) states in part a SR's change requirements. With the exception of the interim report 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 day of the month following the month in which the change occurred.

4. Auditor Badway 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.

5. A BDN dated January 3, 2019, was mailed to the Respondent stating her SNAP benefits are being renewed. Page 2 informs her of the SNAP benefit amount for her household of three (3), eligibility period, and SNAP certification period. Page 3 states, "Changes You Must Report for SNAP: You must tell us if your household's gross monthly income (before taxes) is more than \$2252. 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 May 2019.” Pages 4 through 8 explains 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 states 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 continue to get or continue to get SNAP benefits that your household should not get.”

6. The [REDACTED] payroll shows the Respondent’s daughter was hired with [REDACTED] on January 6, 2019, and received bi-weekly pay stubs from January 25, 2019, through August 9, 2019. In February 2019, the Respondent’s household’s gross monthly income, which was solely based on the daughter’s job income, was \$2,779.89.

7. On June 20, 2019, a BDN was mailed to the Respondent stating her SNAP benefits are ending on June 30, 2019, because she failed to return her SNAP IR for her household of three (3).

8. On July 9, 2019, DHS received the Respondent’s SNAP IR by email. Page 1 explains what is required to continue to receive benefits. Specifically, Answer all questions on the form; Correct any incorrect information; Add any new information; Sign and date this form. Page 2, Current Household Members asks, “Are these people still living in your home?” The chart listed herself, her daughter and grandchild, the Respondent did not answer the question. Page 3, Job Income asks, “Do these people still have the following job income?” The chart shows \$0.00, and she checked “No Change”. The question continues, “Changes to Job Income: “You must tell us if a household member changed, started, or ended a job, and if it led to a change in income.” The chart was left blank. Page 4 Other types of Income and Changes to

Other Types Income: She reported a change to a child support medical order in the blank chart. Page 6 "PENALTIES FOR PERJURY" "Under penalty of perjury, I attest that all of my answers on this form are correct and complete to the best of my knowledge. I understand I am breaking the law if I purposely give wrong information and can be punished under federal law, state law, or both." The Respondent signed the SNAP IR on June 26, 2019, and her daughter signed it on June 27, 2019.

9. On July 9, 2019, DHS received another SNAP IR at the DHS Office. Page 1 clearly explains what is required to continue to receive benefits. Page 2 Current Household Members prelists herself, her daughter and grandchild. She confirmed that they were still living in her home. Pages 3 and 4 asks for Job Income and Changes to Job Income. The Respondent again failed to report her daughter's earned income from [REDACTED] Page 4 asks again about Other Types of Income and Changes, and she reported her daughter's child support order of \$50.00. The Respondent and her daughter again signed the SNAP IR on June 28, 2019, under the PENALTIES FOR PERJURY, certifying that her answers were correct and complete to the best of her knowledge.

10. ET Glennon entered a case note on July 9, 2019, stating the Respondent reported changes to her telephone number and daughter's child support order.

11. Auditor Badway 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..."

12. Auditor Badway testified that the Respondent failed to inform DHS of her changes to her household income on two (2) occasions. First, as a SR she was required to report her income by March 10, 2019, and again on her SNAP IRs. Accordingly, the Respondent

committed an IPV and received SNAP benefits she was not entitled to.

13. On February 20, 2024, Auditor Badway logged into 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 violation, and the Agency is pursuing a twelve (12) month disqualification from SNAP.

14. A SNAP Packet dated February 22, 2024, was mailed to the Respondent at [REDACTED], and [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 March 3, 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 for the period of March 11, 2019, through August 31, 2019, because of "Unreported Earned Income".

15. On April 17, 2024, an Advance Notice of Administrative Disqualification Hearing ("RIFS-121C") was sent by first class mail to the Respondent's last known addresses provided by the Agency, [REDACTED] and emailed to [REDACTED]. The notice stated that the hearing was scheduled for May 20, 2024, at 9:00AM. The Advance Notice of Administrative Disqualification Hearing again states the violation period, reason, and disqualification penalty. The Waiver of Right to Administrative Disqualification Hearing and Waiver Agreement was again sent with the Advance Notice. 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, and the hearing was held accordingly.

VIII. DISCUSSION

The Agency maintains that the Respondent failed to report a change in household income by March 10, 2019, as required per the Simplified Reporter rules, despite being informed of her responsibility to do so. The Agency also maintains that the Respondent intentionally failed to report her correct household income on two (2) her SNAP IRs submitted on July 9, 2019, despite knowing the penalties of perjury. The BDN clearly informed her of the income reporting requirements, her Rights, Responsibilities, and the SNAP Penalty Warnings. The Agency argues the Respondent provided false information, concealed information, and otherwise failed to report her household income. Therefore, it is the Agency's position that it is clear the Respondent committed an IPV from March 11, 2019, through August 31, 2019, which is the last month the Respondent's daughter received her check from [REDACTED]. Thereby, she should be disqualified from SNAP for a period of twelve (12) months.

The record consists of the evidence and testimony from the Agency. The evidence establishes that the BDN dated January 3, 2019, informed the Respondent that she must report if her household's gross monthly income exceeded \$2,252, no later than ten (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 [REDACTED] payroll verified that the Respondent's daughter started employment on January 6, 2019, and was being paid bi-weekly at the time of IR through September 06, 2019. The [REDACTED] payroll verification for [REDACTED] shows the Respondent's daughter's income of \$2,779.89 for the month of February was clearly over the income limit of \$2,252.00. The BDN further informed her of her Rights, Responsibilities, and SNAP penalty warnings.

DHS received both of the Respondent's completed SNAP IRs on July 9, 2019. The only changes she reported on the SNAP IR that was date stamped by DHS, was a change to a telephone number and the daughter's child support order. The SNAP IR clearly states that proof of income from the last thirty (30) days must be included. The Respondent signed the IRs attesting under penalty of perjury that her answers on the IRs were correct and complete to the best of her knowledge.

Based on the above, the Respondent was required to report her household earned income on March 10, 2019, pursuant to 218-RICR-20-00-1 section 1.5.2(A) and as a SR who is required to report changes in income pursuant to 218-RICR-20-00-1 section 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 failed to report her household income. Therefore, the Respondent intentionally provided false information, concealed information, and otherwise intentionally failed to report her daughter's income from the state of Rhode Island. Accordingly, there is clear and convincing evidence that the Respondent committed an IPV initially on March 11, 2019, and continued through August 31, 2019. 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-RICR20-00-1 1.9(C)(1) and 7 C.F.R 273.16(c)(1), that defines an IPV.

IX. CONCLUSIONS OF LAW

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

1. The Respondent was aware of the Simplified Reporting requirements, her Rights, Responsibilities, and the SNAP Penalty Warnings upon receipt of the January 3, 2019, BDN, but still failed to report her household's earned income from BHDDH by March 10, 2019, as required.

2. The Respondent failed to report her household's earned income to DHS on both of her July 9, 2019, SNAP IRs. The Respondent signed under the Penalties for Perjury statement attesting that her answers on the forms were correct and complete to the best of her knowledge.

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

4. The Agency has demonstrated by clear and convincing evidence that the Respondent committed an IPV of the SNAP Regulations from March 11, 2019, through August 31, 2019, based on unreported income.

5. 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) and 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 twelve (12) months 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.

