

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

RI DEPARTMENT OF HUMAN
SERVICES

V.

DOCKET No. 24-2869

[REDACTED]

DECISION

I. INTRODUCTION

A telephonic hearing on the above-entitled matter was conducted by an Administrative Disqualification Hearing Officer on June 4, 2024. The Department of Administration, Office of Internal Audit, Fraud Unit (“Agency”), on behalf of the Department of Human Services (“DHS”), initiated this matter for an Administrative Disqualification Hearing to examine the charge that [REDACTED] (“Respondent”), committed an Intentional Program Violation (“IPV”) of the Supplemental Nutrition Assistance Program (“SNAP”) regulations. The Agency argues that the Respondent failed to report her earned income to DHS as required. The Agency is seeking that the Respondent be charged with an IPV for the period June 3, 2019, through March 31, 2020, 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 RIGL §42-7.2-6.1 and EOHHS regulation 210-RICR-10-05-2 to be the entity responsible for appeals and hearings related to human services. The Administrative Hearing was held in accordance with the Administrative Procedures Act, RIGL §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 she was not entitled to, in accordance with Federal and State regulations 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 Internal Fraud Auditor Tam Bernard, (“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:

- Exhibit #1: A completed AP-50B and earning reports received from [REDACTED] [REDACTED] dated September 20, 2021.
- Exhibit #2: Rhode Island Department of Human Services Application for Assistance (“DHS-2”) dated June 3, 2019.
- Exhibit #3: DHS case note dated June 12, 2019.
- Exhibit #4: Benefits Decision Notice (“BDN”) dated June 12, 2019.
- Exhibit #5: SNAP Six-month Interim Report (“SNAP IR”) dated October 8, 2019.
- Exhibit #6: A BDN dated December 10, 2019.
- Exhibit #7: Electronic Disqualified Recipient System (“eDRS”) dated February 12, 2024.
- Exhibit #8: The Respondent’s Individual Household verification panel for case# [REDACTED]
- Exhibit #9: Cited excerpts from RI Code of Regulations for SNAP, 218-RICR-20-00-1.5.2.A and 218 RICR-20-00-1.9.C.
- Exhibit #10: An Important SNAP Notice (“SNAP Packet”) dated February 14, 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 is still conducted even if the Respondent is not present or otherwise represented.

VI. RELEVANT LAW/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, 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 that appropriate cases are acted upon through an Administrative Disqualification Hearing whenever there is sufficient documentary evidence to substantiate that an individual has committed an IPV. Like its federal counterpart, section §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 Bernard testified that the Agency received a field referral from DHS on January 12, 2021, claiming the Respondent received SNAP benefits while not reporting her correct household earned income. As a result, an investigation commenced into the Respondent’s SNAP case.

2. The Respondent’s SNAP household consists of only her.

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), so she is required to report any changes to her income no later than 10 days after the end of the month when her income increased.

4. Auditor Bernard cited SNAP Regulation 218-RICR-20-00-1 §1.5.2(A) that states “Household income means all income from whatever source excluding only the items specified in §1.5.3 of this Part.” Additionally, §1.5.2(A)(1)(a) states in part “The following types of income are considered earned income: (1) Wages: All wages and salaries for services performed as an employee, ...”

5. According to the AP50 and accompanying earning reports from [REDACTED] the Respondent was continuously employed by [REDACTED] between October 15, 2018, and April 15, 2020.

6. According to the DHS-2, which Respondent completed on June 3, 2019, she signed under penalty of perjury and attested that all of the information contained in this application is true, however, the information was not true. Section 15, asks if the household expects income from a job this month. While, in response to this question, the Respondent disclosed employment at [REDACTED], she failed to disclose her employment at [REDACTED]. Section 28-32 of the application provides: “You have a RESPONSIBILITY to supply accurate information about your income, resources and living arrangements on this application.” The SNAP PENALTY WARNINGS clearly states the consequences for intentionally breaking a SNAP rule includes being barred from SNAP from one (1) year to permanently.

7. Per a case note dated June 12, 2019, Respondent spoke with DHS Staff regarding her weekly salary of \$309.00, with \$600.00 rental expense.

8. A BDN dated June 12, 2019, was mailed to the Respondent. Pages 2 and 3 stated that an application for SNAP received on June 3, 2019, was approved from June 3, 2019, to May 31, 2020, in the amount of \$15.00. The SNAP Certification period is through the month of May 31, 2020, and Respondent must recertify to continue receiving benefits. The BDN further states “Changes You Must Report for SNAP; You must tell us if your household’s gross monthly income (before taxes) is more than \$1,872.00. 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 October 2019.” It further states “You have the RESPONSIBILITY to supply accurate information about your income, resources and living arrangements on this application.” Under 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.”

9. DHS received the Respondent’s SNAP IR on December 3, 2019. Page 1 of the IR provided clear directions on how to complete and submit the form, specifically informing the Respondent that she needed to review the information on the form, make any necessary corrections, and add any new information in order to continue to receive SNAP benefits. On Page 2 the Respondent confirmed her telephone number, and mailing address but failed to confirm her physical address. The section on Pages 3 and 4, entitled “Job Income” asks “Do these people still have the following job income?” The prelisted chart shows \$1,119.00 monthly income from [REDACTED], and the Respondent checked the box “No Changes”. Similarly, the Respondent reported no changes to questions regarding household member employment and income. The Respondent signed the SNAP IR on December 3, 2019, attesting

under “penalty of perjury” that her answers were correct and complete to the best of her knowledge.

10. A December 10, 2019, BDN notified the Respondent that her SNAP benefits were approved from December 1, 2019, to May 31, 2020, for \$146.00. As do all BDNs, it included an explanation of her Rights, Responsibilities, and the SNAP Penalty Warnings.

11. In addition, the Respondent concealed the income from her second job throughout the entire time she was employed and receiving her SNAP benefits. Auditor Bernard testified that the Respondent never informed DHS of her additional income despite being advised that she must do so. Accordingly, the Respondent committed an IPV and received SNAP benefits she was not entitled to.

12. On February 12, 2024, Auditor Bernard logged into eDRS to determine the Respondent’s SNAP disqualification period which showed that the Respondent had no previous SNAP disqualifications. Because this is the Respondent’s first (1st) violation, the Agency is pursuing a twelve (12) month disqualification from SNAP.

13. A SNAP Packet dated February 14, 2024, was mailed to the Respondent’s address of record. 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 February 24, 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 June 3, 2019, to March 31, 2020, due to “Unreported Earned Income”. The IPV is for the period of June 3, 2019, to March 31, 2020, pursuant to 218-RICR-20-00-1 §1.13.1.

14. Auditor Bernard testified that the Respondent did not respond to the SNAP Packet, so he attempted to contact the Respondent via telephone but was unsuccessful.

15. On May 3, 2024, an Advance Notice of Administrative Disqualification Hearing (“RIFS-121C”) was sent by first class mail to the Respondent’s physical address of record. The notice stated that the hearing was scheduled on June 4, 2024, at 9:00 AM. 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 intentionally failed to report her secondary employment at [REDACTED] on the DHS-2 when she applied for SNAP benefits in 2019. She continued to omit this information during the phone interview, upon receipt of the initial BDN, and when submitting her SNAP IR. The Agency argues that the evidence is clear that the Respondent committed an IPV from June 3, 2019, through March 31, 2020, and should be disqualified from SNAP for a period of twelve (12) months.

The record consists of evidence and testimony from the Agency. The evidence shows the Respondent was continuously working at [REDACTED] from October 2018 through April 15, 2020, while also working at [REDACTED]. The Respondent submitted a DHS-2 dated June 3, 2019, on which she failed to report her secondary employment, despite clear language on the DHS-2 telling her that she had a responsibility to provide accurate

information about her income, and despite attesting by signature that her answers on the application were correct and complete to the best of her knowledge. Subsequently, a BDN was mailed to her on June 12, 2019, confirming her SNAP benefits were approved, and again telling her she must provide accurate information about her income, and that she should not lie or hide information to get or continue to get SNAP benefits she should not receive.

The evidence also establishes that DHS received the Respondent's completed SNAP IR in December 2019, at which time she did not report any additional employment. In review of the SNAP IR, Pages 3 and 4 clearly asks for "Job Income" and "Changes to job income", the Respondent checked "No changes". She signed and dated the SNAP IR on December 3, 2019, under the PENALTIES FOR PERJURY statement attesting that her answers were correct and complete to the best of her knowledge.

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, this includes earned income. The Respondent failed to report her earned income on the DHS-2, a SNAP IR, and during her SNAP interview with an eligibility technician. DHS informed the Respondent of her duty to report the correct income on the BDN dated June 12, 2019, and subsequent BDN dated December 10, 2019. The Respondent was informed of the Penalties for Perjury, her Rights, Responsibilities, and the SNAP Penalty Warnings. Therefore, the Respondent intentionally provided false information, concealed information, and otherwise intentionally failed to report her earned income from [REDACTED]. Accordingly, there is clear and convincing evidence that the Respondent committed an IPV on June 3, 2019.

The Respondent violated the SNAP Regulations 218-RICR-20-00-1, §1.9 (C)(1) and 7 C.F.R. §273.16 (c)(1), that defines an IPV.

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 her true household's earned income on the DHS-2 and during the SNAP interview. The Respondent was aware of the Penalty of Perjury, her Rights, Responsibilities, and the SNAP Penalty Warnings by signing the SNAP application.

2. Upon receipt of the June 12, 2019, BDN, the Respondent was aware of her responsibility to provide accurate information about her income and not lie or hide information in order to receive SNAP benefits she was not eligible for, as well as the penalties for intentionally breaking a SNAP rule.

3. The Respondent failed to report her earned income on her SNAP IR. The Respondent signed and dated the form on December 3, 2019, under the Penalties for Perjury statement attesting that her answers on the form were correct and complete to the best of her knowledge.

4. 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.

5. The Agency has demonstrated by clear and convincing evidence that the Respondent committed an IPV of the SNAP Regulations from June 3, 2019, through March 31, 2020.

6. 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 (1st) 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 twelve (12) months is granted.

AGENCY'S INTENTIONAL PROGRAM VIOLATION CHARGE IS GRANTED

/s/Jenna Vilaro

EOHHS Appeals 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 RIG General Laws §43-35-15, 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 Seebeck, Brittney Badway, Iwona Ramian, Esq. Denise Tatro, Bethany Caputo and DHS Policy Office, on this 17th day of July, 2024.


