

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

RI DEPARTMENT OF HUMAN SERVICES

V.

DOCKET No. 24-3105

[REDACTED]

DECISION

I. INTRODUCTION

A telephonic hearing on the above-entitled matter was conducted by an Administrative Disqualification Hearing Officer on June 17, 2024, and July 23, 2024. The Department of Administration, Office of Internal Audit, Fraud Unit (Agency) on behalf of the Rhode Island Department of Human Services (DHS), initiated this matter to 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 misused her SNAP benefits by allowing an unauthorized couple to use her Electronic Benefits Card (EBT) and PIN number to purchase food. The Agency is seeking that the Respondent be charged with an IPV for the period May 2, 2023, through June 4, 2023, 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 allowing unauthorized individuals to access her SNAP benefits by using her EBT card and PIN number to purchase food, 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. TRAVEL OF THE CASE

A telephonic hearing was conducted by an Administrative Disqualification Hearing Officer on the matter on June 17, 2024. Present for the Agency was Fraud Internal Auditor Timothy Lackie (hereinafter Auditor Lackie). 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), the hearing was conducted without the Respondent present or represented.

The Respondent called the Appeals Office on June 18, 2024, stating she was sick in bed and could not attend the hearing. A good cause letter for missing the hearing was requested,

which the Appeals Office received on July 5, 2024. Good cause was granted, and the hearing was rescheduled for July 23, 2024. However, the Respondent again did not call into the hearing and Auditor Lackie agreed to accept the previous hearing record.

VI. PARTIES AND EXHIBITS

Auditor Lackie 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: RI Bridges printout of the Respondent's SNAP case showing there is no Authorized Representative (AR) on file.
- Exhibit #2: Household composition excerpt from the Respondent's March 15, 2023, SNAP application showing her as the only household member.
- Exhibit #3: Accurant Comprehensive Report on phone numbers for [REDACTED] ([REDACTED]) and [REDACTED] ([REDACTED]).
- Exhibit #3a: RI Bridges printout showing [REDACTED] phone number as [REDACTED], and the [REDACTED] phone number, which Auditor Lackie said belonged to [REDACTED].
- Exhibit #3b: Accurant Comprehensive phone report for [REDACTED], another [REDACTED] family member ([REDACTED] family member).
- Exhibit #4: RI Division of Motor Vehicles photographs of the Respondent and [REDACTED] and [REDACTED] (collectively The [REDACTED]).
- Exhibit #5: EBT Edge transactions and telephone balance inquiries on the Respondent's EBT card ending in [REDACTED] from April 1, 2023 to June 10, 2023

- Exhibit #6: Security footage from the [REDACTED] transaction, May 2, 2023.
- Exhibit #6a: [REDACTED] receipt dated May 2, 2023.
- Exhibit #6b: Three EBT Edge transactions on card ending in [REDACTED] May 2, 2023, May 4, 2023, and June 4, 2023.
- Exhibit #6c: Still frame from security footage of the May 2, 2023, [REDACTED] [REDACTED] transaction.
- Exhibit #7: Security footage from the [REDACTED] transaction, May 4, 2023.
- Exhibit #7a: [REDACTED] receipt dated May 4, 2023.
- Exhibit #7b: Still frame from security footage of the May 4, 2023, [REDACTED] [REDACTED] transaction.
- Exhibit #8: Security footage from the [REDACTED] transaction, June 4, 2023.
- Exhibit #8a: [REDACTED] receipt dated June 4, 2023.
- Exhibit #8b: Still frame from security footage of the June 4, 2023, [REDACTED] [REDACTED] transaction.
- Exhibit #9: The Respondent's March 15, 2023, SNAP application.
- Exhibit #10: Benefits Decision Notice (BDN) dated March 24, 2023.
- Exhibit #11: Audio recording between Auditors and [REDACTED].
- Exhibit #11a: RIGL 11-35-21 regarding unauthorized interception, disclosure, or use of wire, electronic, or oral communications.
- Exhibit #11b: [REDACTED] Electronic Disqualified Recipient System (eDRS) search results showing three (3) previous IPVs and permanent disqualification from participating in SNAP.

- Exhibit #12: Audio recording between Auditor Lackie and another couple, [REDACTED] and [REDACTED].
- Exhibit #13: Audio recording between Auditor Lackie and Respondent.
- Exhibit #13a: Bridges case note dated September 26, 2023, stating the Respondent reported her EBT card lost, not stolen, and printout showing the EBT card ending in [REDACTED] was reported lost on September 26, 2023.
- Exhibit #14: Copy of definition of Intentional Program Violation, 218 RICR 20-00-1.9(C).
- Exhibit #15: eDRS search results stating no previous SNAP disqualifications for the Respondent.
- Exhibit #16: The Respondent's individual summary screen printout from RI Bridges.
- Exhibit #17: Cited excerpts from the Rhode Island Code of Regulations for SNAP, 218 RICR 20-00-1 § 1.2.1(A), §1.2.11(A)(1), § 1.9(C) and §1.13.1(A)(2).
- Exhibit #18: An important SNAP Notice (SNAP packet) dated April 19, 2024.

VII. 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” (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 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.

A SNAP household is defined as an individual living by themselves, an individual living with others, but who customarily purchases and prepares meals separately, or a group of people who live together and purchases and prepares meals together. See 218-RICR-20-00-1§ 1.2.1(A). A SNAP household can choose an Authorized Representative (AR) to use their SNAP benefits. An individual who has been disqualified from SNAP cannot be an AR during their disqualification period. See 218-RICR-20-00-1§1.16(C) and RICR-20-00-1§1.2.11(D). SNAP beneficiaries are required to immediately report any loss or theft of their EBT cards, and are required to keep the card and PIN number safe from misuse. See 218-RICR-20-00-1§1.16(A)(7) & (B)(1).

VIII. FINDINGS OF FACT

1. Auditor Lackie testified the investigation began on November 17, 2022, after the Agency received a hotline, claiming a client named [REDACTED] had been trafficking or

selling his SNAP benefits.

2. Through that investigation, Auditor Lackie testified it was discovered that another client's EBT benefits, in addition to [REDACTED] EBT benefits, were being used by a family, [REDACTED].
3. Auditor Lackie testified that from January 2023 through June 2023, a total of seven EBT cards, including the Respondent's, were being used by [REDACTED] in stores to buy food, and balance inquiries would be made prior to making food purchases.
4. [REDACTED] phone number [REDACTED], was used most often to conduct the telephone balance inquiries, but other phone numbers used were [REDACTED] ([REDACTED] phone number) and [REDACTED] ([REDACTED] family member's phone number).
5. The Respondent's EBT card, ending in [REDACTED] was used at [REDACTED] three (3) times: May 2, 2023, for \$139.07; May 4, 2023, for \$21.52; and June 4, 2023, for \$282.84.
6. The [REDACTED] can be seen in surveillance video of all three (3) transactions. The Respondent is not in any of the videos.
7. Auditor Lackie cited RICR 20-00-1§1.9(C), which states an IPV shall consist of having intentionally made a false or misleading statement, or misrepresented, concealed, or withheld facts, or committed any act that constitutes a violation of

SNAP, as defined in 7 C.F.R. § 273.16(e).

8. The Respondent applied for SNAP benefits on March 15, 2023.
 - a. The Respondent did not list an AR on her Application.
 - b. The only household member listed on the Application was the Respondent.
 - c. The Respondent signed the Application, under the Penalty of Perjury, that she understood the penalty for breaking any of the rules listed in the penalty warnings.
 - d. The Application clearly states “DO NOT trade or sell (or attempt to trade or sell) EBT cards.
9. A BDN dated March 24, 2023, stated SNAP was approved as of March 21, 2023, and included SNAP PENALTY WARNINGS: “any member of a household who intentionally breaks a SNAP rule will be barred from the SNAP from one year to permanently, fined up to \$250,000, imprisoned up to 20 years, or both.”
10. The ██████ told Auditor Lackie in a September 2023 interview that their friends give them their EBT cards and PIN numbers so they can purchase food, and the friends are then welcome to the food they buy.
11. ██████ said the Respondent is one of the friends whose card they have used.
12. ██████ said on one of the shopping trips (June 4, 2024), the Respondent waited in the car while she and her husband shopped.
13. In an interview with Auditor Lackie, the Respondent denied giving her EBT card to The ██████ and said she did not know them.
14. The ██████ referred to ██████ and ██████ as friends. Their EBT cards also had been used on shopping trips, Auditor Lackie testified.
15. ██████ told Auditor Lackie the Respondent is her friend, and the Respondent

said she lived with [REDACTED] and [REDACTED] in May, June, and July 2023.

16. A case note from an Eligibility Technician on September 26, 2023, states the Respondent said she gave her boyfriend's sister her EBT card to keep safe, but was unsure if the person had the card. A new card was requested and issued that day as it was reported lost.
17. A SNAP Packet dated April 19, 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 April 29, 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 May 2, 2023, through June 4, 2023, because of "misuse."
18. Auditor Lackie concluded the Respondent violated SNAP regulation 7 C.F.R. 273.16(C) and 218-RICR-20-00-1§1.9(C), by transferring her EBT card to The [REDACTED] and allowing them to use her SNAP benefits.
19. An Advance Notice of Administrative Disqualification Hearing (RIFS-121C) was sent by first class mail on May 24, 2024, to the Respondent's address of record. The notice stated the hearing was scheduled on June 17, 2024, at 1:00 p.m. 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 were included with this notice. In accordance with 7 C.F.R. §273.16(c)(3) and 219-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.

20. After good cause was established for the Respondent missing the June 17, 2024, hearing, another Advance Notice of Administrative Disqualification Hearing (RIFS-121C) was sent on July 8, 2024, by first class mail to the Respondent's address of record. The notice stated the hearing would be reconvened on July 23, 2024 at 9:00 a.m. It stated the violation period, reason, and disqualification penalty. The Waiver of Right to Administrative Disqualification Hearing and Waiver Agreement again were sent with this notice.

21. Another notice, dated July 17, 2024, was sent to the Respondent to her address of record, reminding her of the new hearing date and time, and advising her to contact the Appeals Office prior to the hearing if she needed any special accommodations.

IX. DISCUSSION

The Agency maintains that the Respondent intentionally misused her EBT card by allowing unauthorized individuals, The [REDACTED] to use her EBT card and PIN number to purchase food. Based on the evidence, it is clear the Respondent committed an IPV from May 2, 2023, through June 4, 2023, and 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 Respondent is a household of one (1) and did not designate an AR pursuant to RICR-20-00-1 §1.2.11(A)(1).

The [REDACTED] statements during their interview to Auditor Lackie that they would use their friends' EBT cards to purchase food and then would have a generous open-door policy allowing them to eat the food purchased with their cards are not credible. The food was kept

with The [REDACTED] and, per regulations, [REDACTED] could not serve as an AR as she is permanently barred from SNAP due to three (3) previous IPV's. According to the receipts provided as evidence, \$139.07 worth of food was purchased using the Respondent's EBT card on May 2, 2024, and \$21.52 on May 4, 2023, totaling \$160.59, which is more than half of the Respondent's total SNAP monthly allocation of \$281.00. On June 4, 2024, The [REDACTED] paid \$282.84 for food using the Respondent's EBT card, Auditor Lackie testified. [REDACTED] security video footage clearly shows The [REDACTED] and not the Respondent, during all three (3) shopping trips. The [REDACTED] are identifiable as DMV photographs were submitted of them, along with the Respondent, as evidence. [REDACTED] phone number also was used to make balance inquiries about the Respondent's EBT card.

Auditor Lackie noted the SNAP application that the Respondent signed under the Penalty for Perjury clearly includes SNAP PENALTY WARNINGS. The warnings were repeated on the BDN she received March 24, 2023, stating that any member of a household who intentionally breaks a SNAP rule will be banned from SNAP for one year to permanently. It also states, "DO NOT trade or sell (or attempt to trade or sell) EBT cards or use someone else's EBT card for your household."

Auditor Lackie testified there was a pattern of misuse involving the Respondent's EBT card, and that she allowed The [REDACTED] to use her EBT card and PIN on three (3) occasions, spending a total of \$443.43 on food. The Respondent's statements that she did not know The [REDACTED] and did not allow them to use her card carry little weight as The [REDACTED] told Auditor Lackie they knew her and had permission to use her card. In the interview with Auditor Lackie, the Respondent claimed that she reported her card stolen in the fall of 2023. According to Auditor Lackie, however, there was no evidence that any such report was

made. In addition, the alleged report was made several months after the [REDACTED] used the card, which does not support her claim that her card was stolen. She also told Auditor Lackie she did not give her sister-in-law permission to use her card. The DHS case note from September 2023, however, states the Respondent asked for a new EBT card because she gave the card to her then boyfriend's sister to keep it safe and was unsure if she still had it. In short, the Respondent's statements that she did not give The [REDACTED] or her sister-in-law access to her card were all discredited by more credible evidence to the contrary.

Based on the above, it is clear the Respondent intentionally misused her EBT card by allowing The [REDACTED] access to her card and PIN number, and intentionally committed an IPV of the SNAP program by allowing The [REDACTED] to use her SNAP benefits to purchase food. This is evident based on the EBT transaction history, videos, and photos. The Respondent violated SNAP regulations 218-RICR-20-00-1 §1.9(C) and 7 C.F.R. §273.16(c), that define an IPV, and those regulations show there is clear and convincing evidence that the Respondent committed an IPV during the period from May 2, 2023, and June 4, 2023.

X. 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 is a household of one (1) with no AR. She is the sole authorized user of her EBT card, and is responsible for her card and PIN.
2. The Respondent was aware of the SNAP Penalty Warnings as she signed her March 15, 2023, application under the Penalty of Perjury.
3. The BDN dated March 24, 2023, again clearly stated her Rights, Responsibilities, and SNAP Penalty Warnings.

4. It is clear the Respondent allowed The [REDACTED] access to her EBT card and PIN to purchase food on three (3) occasions, even though they were not part of her household.
5. The Agency has demonstrated by clear and convincing evidence that the Respondent committed an IPV of the SNAP Regulations from May 2, 2023, through June 4, 2023, by allowing The [REDACTED] to use her EBT card and PIN number to purchase food. The Respondent violated SNAP Regulations 218-RICR-20-00-1 §1.9(C)(1) and 7 C.F.R. §273.16(c)(1), that define an IPV.
6. Consequently, the Respondent 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 for the first (1st) violation.

XI. 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 the Respondent's misuse of her EBT card and PIN number.

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 Timothy Lackie, Kimberly Seebeck, Brittny Badway, Iwona Ramian Esq., and DHS representatives Denise Tatro, Kimberly Rauch, and Jenna Simeone, and the DHS Policy Office at DHS.PolicyQuestions@dhs.ri.gov on this 27th day of August, 2024.

