

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

DEPARTMENT OF HUMAN SERVICES

v.

DOCKET NO. 24-3666

████████████████████

DECISION

I. **INTRODUCTION**

A telephonic hearing on the above-entitled matter was conducted by an Administrative Disqualification Officer on July 30, 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 the household income. The Agency is seeking that the Respondent be charged with an IPV for the period October 11, 2023, through April 30, 2024, 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 Brittny 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: State of Rhode Island Human Resources Department (“RI HR”) payroll for the Respondent’s son.
- Exhibit #2: Benefit Decision Notice (“BDN”) dated March 20, 2023.

- Exhibit #3: Benefit Decision Notice (“BDN”) dated September 2, 2023.
- Exhibit #4: SNAP Six-Month Interim Report (“SNAP IR”) dated October 11, 2023.
- Exhibit #5: SNAP Recertification Renewal (“SNAP Recert”) dated March 29, 2024.
- 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 five (5).
- 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 May 3, 2024, mailed to [REDACTED].

The Respondent, [REDACTED], attended the telephonic hearing and testified on her own behalf but did not submit any documentary evidence.

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 information from [REDACTED] on April 8th, 2024, that the Respondent received SNAP benefits while incorrectly reporting her household income. As a result, an investigation commenced into the Respondent’s SNAP case.

2. Auditor Badway testified the Respondent’s SNAP case consists of herself, her spouse, daughter and two (2) sons, a household of five (5), 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 (A)(2) states in part a SR’s must report changes in income which bring the household’s gross income in excess of the gross income eligibility standard for that size household.

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 March 20, 2023, 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 five (5), eligibility period, and SNAP certification period. Page 4 states, "Changes You Must Report for SNAP: You must tell us if your household's gross monthly income (before taxes) is more than \$3,518. 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 September 2023." 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. A BDN dated September 2, 2023, was mailed to the Respondent stating her SNAP benefits are changing due to a cost-of-living increase in the SNAP program effective October 1st, 2023. Page 2 informs her of the SNAP benefit amount for her household of five (5), eligibility period, and SNAP certification period. Page 4 states, "Changes You Must Report for SNAP: You must tell us if your household's gross monthly income (before taxes) is more than \$3,807. 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 September 2023." 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.”

7. The State of RI payroll shows the Respondent’s son was hired with [REDACTED] [REDACTED] as a Junior Computer Operator in August 2023, and received his first bi-weekly pay stub on August 18, 2023, in the amount of \$1,600.00. In September 2023, the Respondent’s son’s total income for the month was \$5,757.72 which exceeded the reportable income amount of \$3,807.00 that was shown on the BDN dated September 2, 2023.

8. On October 11, 2023, DHS received the Respondent’s self-service SNAP IR. Page 1 explains what is required to continue to receive benefits. Specifically, the Respondent was required to: Answer all questions on the form; Correct any incorrect information; Add any new information; Sign and date this form. Page 3, Income information asks, “Current Employment?” The question continues on page 4. The chart shows the only income listed is the Respondent’s daughter, who is not a requesting household member. Page 6 “PENALTIES WARNINGS” “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 October 11, 2023.

9. On April 8, 2024, DHS received the Respondent’s SNAP Recert. Page 2 shows the

SNAP benefits are scheduled to end April 30, 2024, unless renewed. The household members listed who are renewing benefits are the Respondent, her spouse, daughter and two (2) sons. Page 2 also instructs the client to review the information on this form to make sure that it is correct. Cross out any wrong information and write the correct information in the space provided. Page 4 asks for information on current household members, "Are these people listed still living in your home?" A prelisted chart is provided, and she checks the box showing yes. Page 6 asks for information on income from work. The question ask "is this information below correct?" She checks the box showing yes. The section continues, "if no, please provide the correct information and any new income information in the chart provided". The chart is left blank, and the Respondent fails to report her son's income with the [REDACTED]. Her son had received a check on March 23, 2024, in the amount of \$2,078.26 and had been receiving bi-weekly pay since August 2023. Page 10 explains the PENALTY OF PERJURY. By signing the IR, the Respondent acknowledged that she understood her answers were complete and true, and that if she failed to provide complete and true answers she would be subject to penalties.

10. 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...."

11. 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 and again on her SNAP IR and SNAP Recert. Accordingly, the Respondent committed an IPV and received SNAP benefits she was not entitled to.

12. On April 30, 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.

13. A SNAP Packet dated May 3, 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. 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 October 11, 2023, through April 30, 2024, because of "Unreported Earned Income." Auditor Badway testified that on May 7, 2024, the Respondent contacted her to discuss the SNAP Notice. After the IPV and Waiver of ADH was explained to the Respondent, the Respondent requested an Administrative Disqualification Hearing.

14. On July 5, 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 July 30, 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. The Waiver Agreement was not utilized by the Respondent. 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 October 10, 2023, as required by 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 her SNAP IR and SNAP Recert, despite 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 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 October 11, 2023, through April 30, 2024, which is the case closure date. 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 a BDN dated March 20, 2023, informed the Respondent that she must report if her household's gross monthly income exceeded \$3,518.00, and a second BDN dated September 2, 2023, informed the Respondent that she must again report if her household's gross monthly income exceeded \$3,807.00. Sec 218-RICR-20-00-1 § 1.13.1(A)(2)(a). The [REDACTED] payroll verified that the Respondent's son started employment in August 2023, and was being paid bi-weekly at the time of IR through April 6, 2024. The [REDACTED] payroll verification shows the Respondent's son's income of \$5,757.72 for the month of September was clearly over the income limit of \$3,807.00.

DHS received the Respondent's completed SNAP IR on October 11, 2023. The only income listed was the daughter's income who is not a requesting household member. The SNAP

IR clearly states that proof of income from the last thirty (30) days must be included. The Respondent signed the IR attesting under penalty of perjury that her answers on the IR 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 October 10, 2023, 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 [REDACTED]. Accordingly, there is clear and convincing evidence that the Respondent committed an IPV initially on October 11, 2023, and continued through April 30, 2024. 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 March 20, 2023, and September 2, 2023, BDNs, but still failed to report her household's earned income from [REDACTED] by October 10, 2023, as required.

2. 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. The Respondent, however, failed to report her household's earned income to DHS on her October 11, 2023, SNAP IR.

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 October 11, 2023 through April 30, 2024, 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.

AGENCY'S INTENTIONAL PROGRAM VIOLATION CHARGE IS GRANTED

