

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

Department of Human Services

V.

DOCKET No.

24-3763

████████████████████

DECISION

INTRODUCTION

A telephonic hearing on the above-entitled matter was conducted by an Administrative Disqualification Hearing Officer on Tuesday, July 16, 2024, at 9:00 AM. The Department of Administration, Office of Internal Audit, Fraud Unit (the Agency), on behalf of the Department of Human Services (DHS), initiated this matter for an Administrative Disqualification Hearing and held to examine the charge that the Respondent, ██████████, had committed an Intentional Program Violation (IPV) of the Supplemental Nutrition Assistance Program (SNAP). The Agency argues that the Respondent failed to report his job income as required. The Agency is seeking that the Respondent be charged with an IPV and be disqualified from SNAP for a period of one (1) year. For the reasons discussed in more details below the Administrative Disqualification Hearing has been decided in favor of the Agency/DHS.

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.

ISSUE

The issue before this Administrative Disqualification Hearing Officer is whether the Respondent committed a SNAP IPV by intentionally 1) making a false statement(s), 2) making a misleading statement(s), 3) making a misrepresentation(s), 4) concealing fact(s), 5) withholding fact(s), or 6) committing any act(s) that constitutes a violation of SNAP policy or statute to receive SNAP benefits, in accordance with federal and state policy as set forth below.

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 Administrative Disqualification Hearing Officer can accept as highly probable. 7 C.F.R. § 273.16(e)(6) & 218-RICR-20-00-1.9(B).

PARTIES AND EXHIBITS

Present were DHS Deputy Chief Legal Counsel Iwona Ramian, Internal Audit Manager Brittny Badway, and the Respondent. The following exhibits were presented as evidence:

- Agency Exhibits:
 - The Work Number report on the Respondent dated March 28, 2024.
 - DHS Application for Assistance (DHS-2) submitted by the Respondent in March of 2023.
 - Benefits Decision Notice (BDN) issued to the Respondent on April 3, 2023.
 - Recertification/Renewal Notice completed by the Respondent.
 - Electronic Disqualified Recipient System (eDRS) query on the Respondent.

- RI Bridges printout of the Individual Household screen from the Respondent's case.
- DHS-2 submitted by the Respondent in May of 2024.

RELEVANT LAW/REGULATIONS

An IPV is defined as intentionally 1) making a false statement(s), 2) making a misleading statement(s), 3) making a misrepresentation, 4) concealing fact(s), 5) withholding fact(s), or 6) committing any act(s) that constitutes a violation of SNAP policy or statute for the purposes of 1) using, 2) presenting, 3) transferring, 4) acquiring, 5) receiving, 6) possessing, or 7) trafficking in SNAP benefits. 7 C.F.R. § 273.16(c). To determine whether an IPV has occurred, 7 C.F.R. § 273.16(e)(6) requires the State agency to conduct an Administrative Disqualification Hearing to determine whether there is clear and convincing evidence that an IPV occurred.

Similarly, the Rhode Island state counterpart, 218-RICR-20-00-1.9, provides that the "The Office of Internal Audit is responsible for investigating any case of [an] alleged intentional program violation and ensuring that appropriate cases are acted upon, either through Administrative Disqualification Hearings or referral[s] to a court of appropriate jurisdiction." It further provides that "[a]dministrative disqualification procedures or referral[s] for prosecution action be initiated whenever there is sufficient documentary evidence to substantiate" that an IPV occurred.

If there is a finding that there was an IPV, the disqualification penalty is one (1) year for the first violation. 7 C.F.R. § 273.16(b)(1)(i) & 218-RICR-20-00-1.9(A)(3)(a).

Households are required to complete an application or a Recertification/Renewal Notice regularly, usually yearly, to renew their benefits. 7 C.F.R. § 273.14 & 218-RICR-20-00-1.7. Making false or misleading statement(s), misrepresentation(s), concealment(s), or withholding fact(s) in that process can be considered as an IPV. 7 C.F.R. § 273.16 (c)(10) & 218-RICR-20-00-1.9(C).

Households are required to report certain changes. For households, like the Respondent, that are considered Simplified Reporters, they are required to complete an interim half-way through the

certification period. They are also required to report when they win substantial gambling winnings and when the household's gross monthly income exceeds the gross monthly income limit for their household. A household needs to determine its gross income at the end of the month and, if it exceeds the gross monthly income limit, they are required to report the change to DHS within ten (10) days following the end of the month. 7 C.F.R. § 273.12 (a)(5)(iii)(G)(1), 7 C.F.R. § 273.13(A)(5)(v), & 218-RICR-20-00-1.13.1. Income from a SNAP household includes all wages and salaries. 7 C.F.R. §273.9(b)(1)(i) & 218-RICR-20-00-1.5.2(A)(1)(a)(1).

OBJECTIONS AND MOTIONS

The record was held open to allow the submission of the May 2024 DHS-2 that the Respondent submitted. The Agency provided this DHS-2 and the Respondent was given a week to submit any response. No response was received from the Respondent.

The Agency also submitted case notes and an updated Work Number printout. While these were submitted during the record held open period, they were not part of what was discussed to be submitted. These documents are not being considered in this decision. However, an in-camera review shows they would not have an impact on this decision.

FINDINGS OF FACT

1. The Respondent applied for SNAP benefits on or about March 28, 2023. On the DHS-2, he marked off that he did not have any income and was not working.
 - a. The DHS-2 informed the Respondent that he had a responsibility to report changes to DHS. The DHS-2 warned of the penalties for committing an IPV.
 - b. The Respondent signed the DHS-2, under penalty of perjury, that his answers were correct and complete, that he understood the questions on the DHS-2, and the penalty for hiding or giving false information.

2. The Respondent was not working when he applied for and was approved for SNAP benefits.
 - a. The Respondent was issued a BDN on April 3, 2023, which confirmed he was approved for SNAP benefits.
 - b. The BDN advised the Respondent that he needed to report when his gross monthly income exceeded \$1,473.00 a month. He had ten (10) days after the month the income went up to report the change.
 - c. The BDN also reminded the Respondent of his duty to supply accurate information about income.
3. The Respondent started working for [REDACTED].
 - a. His first paycheck was issued on November 22, 2023, in the gross amount of \$378.72.
 - b. He grossed a total of \$3,802.49 for December 2023.
4. In January of 2024 the Respondent was sent and completed his Recertification/Renewal Notice.
 - a. On that notice he checked off that the prefilled information regarding work income was correct.
 - b. No work income data was prefilled. No work information was added by the Respondent.
 - c. The Respondent signed the Recertification/Renewal Notice under the penalties of perjury that his answers were correct and complete to the best of his knowledge.
 - d. This was dated January 19, 2024.
5. The Respondent never completed a required interview and his SNAP benefits closed at the end of February for not recertifying/not having an interview.
6. The Respondent was still working for [REDACTED] when he recertified. He earned a total of \$2,971.49 in January of 2024. This included \$936.22 on January 19, 2024. The same day the Respondent signed the Recertification/Renewal Notice.
7. The Respondent is a Simplified Reporter with a SNAP Household size of one (1).
8. An eDRS search shows that the Respondent does not have any prior IPV's. As such this would amount to the Respondent's first IPV and be subject to a one (1) year bar.

9. The Respondent reapplied for SNAP in May. He was still working for [REDACTED] at the time. He did not report this income on the DHS-2 he submitted.
10. The Respondent argued that he was not aware he was supposed to report that he was working.
 - a. The Respondent testified that he had friends in the program who work but did not report their work income or that he was unaware they were sending in their work income information.
 - b. The Respondent testified that he if had someone that could explain things better, he would have reported the income.
 - c. The Respondent testified that if he knew the consequences he would have gone to the office and not use the telephone.

DISCUSSION

The Respondent was determined to be a Simplified Reported. This means that he had a duty to report when his gross monthly income exceeded the reporting threshold for his household size in a calendar month. For a household of one, like the Respondent's household, the reporting threshold was \$1,473.00, gross, in a month.

The DHS-2 the Respondent completed clearly told him of the reporting requirements in the Rights and Responsibilities section. Furthermore, the Respondent was issued a BDN that clearly stated that he had to report when his household gross monthly income exceeded \$1,473.00. It also clearly listed that the Respondent had ten (10) days following the end of the month the income went over to report the change. From all this, the Respondent would have been well informed of his duty to report and when it is triggered.

The Respondent began working in November of 2023. Since he began working in late November 2023, he did not reach the reporting threshold in November. However, December of 2023 was a full month of work for the Respondent. In total, the Respondent was paid \$3,802.49 in gross wages. This was

2.5 times over the \$1,473 reporting threshold. As such, the Respondent would have till January 10, 2024, to report the change in income. The failure to report said income constitutes an IPV.

Furthermore, later actions by the Respondent showed that he continued to fail to properly report his income. In January of 2024, the Respondent was due to complete his yearly Recertification/Renewal Notice. That notice was sent out around January 1, 2024. It was also prefilled with the current information that DHS had available regarding the Respondent's case. Under *Income from Work*, the Respondent checked off that the information was correct. No work income information was added or corrected. The Notice did not have anything prefilled for income. This was signed on January 19, 2024. However, the Respondent was still employed and was paid \$936.22 on January 19, 2024, the same day he signed the Recertification/Renewal Notice. The Recertification/Renewal Notice was signed, under penalty of perjury that the Respondent's answers were correct and complete. By not providing work information, the Respondent continued to commit an IPV.

The Respondent argued that he did not understand the requirements well, that many of his friends were on SNAP and did not report income, and that if he had someone who could explain things better, he would have done things differently. While this may help explain why he failed to report the income when the reporting threshold was met, it does not explain how the Respondent was able to complete the Recertification/Renewal Notice and intentionally check off that his income information was correct when it clearly was not correct on the notice.

The Agency/DHS also raised that the Respondent continued to fail to report his income when he attempted to reapply for SNAP after being closed in February of 2024. On that DHS-2 the Respondent put that he expected to receive \$0 that month in income (from any source) when responding to the expedited SNAP screening questions and checked off no to expecting a job income that month. The Agency testified that the Respondent was still employed at the time of the second DHS-2. This further supports that the Respondent was committing an IPV based on his continuing failure to report income.

CONCLUSION OF LAW

After careful review of the testimony and evidence present at the administrative hearing, this Appeals Officer concludes:

1. The Respondent's income exceeded the reporting threshold of \$1,473.00 in December 2023.
2. The Respondent was required to report this income increase to DHS by January 10, 2024, and ensure the information was updated/correct on his Recertification/Renewal Notice.
3. The Respondent failed to report his job income as required by January 10, 2024, and on his Recertification/Renewal Notice.
4. The failure to properly and timely report this income results in the Respondent having committed an IPV.

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 Respondent committed an IPV and be barred from participating in SNAP for a period of one (1) year.

AGENCY'S INTENTIONAL PROGRAM VIOLATION CHARGE IS GRANTED

Shawn J. Masse

Shawn J. Masse

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 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 Kimberly Seebeck, Brittny Badway, Iwona Ramian, Esq., Denise Tatro, and DHS Policy at DHS.PolicyQuestions@dhs.ri.gov on this 30th day of July, _____.

Samira McQuinn