

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

Department of Human Services

DOCKET No. 24-3803

v.
[REDACTED]

DECISION

I. INTRODUCTION

A telephonic hearing on the above-entitled matter was conducted by an Administrative Disqualification Hearing Officer on July 22, 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 against [REDACTED] (“Respondent”), had committed an Intentional Program Violation (“IPV”) of the Supplemental Nutrition Assistance Program (“SNAP”) regulations. The Agency argues that the Respondent misused his Electronic Benefit Card (“EBT”) by allowing members that are not part of his SNAP household to use his EBT card and PIN number to purchase food. Due to the above reason, the Agency is seeking that the Respondent be charged with an IPV for the period February 3, 2023, through April 1, 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 favor of the Agency.

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 his EBT benefits to be used by non-household members to purchase food for themselves, 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 based on clear and convincing evidence. 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. 7 C.F.R. § 273.16(e)(6) & 218-RICR-20-00-1.9(B).

V. PARTIES AND EXHIBITS

Fraud Detection and Prevention Internal Auditor Timothy Lackie appeared on behalf of the Agency. He 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 full exhibits at the hearing which were entered into the record of hearing:

- Exhibit #1: EBT Data Warehouse printout of inquiries made on, and transactions posted to two (2) of the Respondent's EBT cards.

- Exhibit #2: [REDACTED] receipt dated February 12, 2023; three (3) photos of an unknown person making the above purchases.
- Exhibit #3: Screenshot from RI Bridges showing the Respondents card ending in [REDACTED] reported lost on February 7, 2023, and card ending in [REDACTED] was issued, and two (2) screenshots showing balance inquiries on February 7, 2023, for card ending in [REDACTED]
- Exhibit #4: RI Division of Motor Vehicles Photo identification for [REDACTED] (“[REDACTED]”) and a Pennsylvania Identification Card for the Respondent.
- Exhibit #5: RI Bridges Individual summary printout for the Respondent’s case [REDACTED]
- Exhibit #6: RI Bridges Authorized Representative summary printout for the Respondent’s case [REDACTED]
- Exhibit #7: EBT Data Warehouse screenshot of all EBT activity from February 1, 2023, through April 17, 2023; Accurint Comprehensive Report on phone numbers for [REDACTED] and for [REDACTED] (“[REDACTED]”); RI Bridges printout of [REDACTED] telephone number.
- Exhibit #8: Photo identifications for [REDACTED] and [REDACTED] (“[REDACTED]”).
- Exhibit #9: Security footage of [REDACTED] leaving [REDACTED] on February 3, 2023; [REDACTED] receipt dated February 3, 2023; an undated photo of [REDACTED] leaving [REDACTED].
- Exhibit #10: [REDACTED] receipt dated April 1, 2023; photo identification for [REDACTED] (“[REDACTED]”); a still frame from security footage of [REDACTED] transaction on April 1, 2023; RI DMV photo identification of [REDACTED].
- Exhibit #11: Video footage of an interview with [REDACTED]; [REDACTED] brother was present as well; copy of R.I.G.L. §11-35-21 “Unauthorized interception, disclosure, or use of wire, electronic, or oral communication.
- Exhibit #12: The Respondent’s application, signed and dated October 20, 2022.
- Exhibit #13: Benefit Decision Notice (“BDN”) dated October 27, 2022.

- Exhibit #14: Copy of excerpts of SNAP regulations defining an IPV relied upon by the Agency.
- Exhibit #15: Electronic Disqualified Recipient System (eDRS) results for the Respondent.
- Exhibit #16: Copy of Bridges Individual Summary screen.
- Exhibit #17: Copy of RI regulations regarding household composition, authorized representatives, and Intentional Program Violations.
- Exhibit #18: DOA SNAP packet consisting of a letter, waiver rights, and a waiver agreement form, addressed to the Respondent, dated May 8, 2024.

The Respondent did not appear for the scheduled Hearing. In accordance with 7 C.F.R. §273.16(e)(4) and 218-RICR-20-00-1, §1.22(K)(13), if the household member or its representative fails to appear at the hearing without good cause, the hearing is conducted without the Respondent present. The hearing commenced at 9:12 a.m. without the Respondent present or represented.

VI. RELEVANT LAW/REGULATIONS

7 C.F.R. §273.16 (c), entitled “Disqualification for Intentional Program Violation (IPV)”(c), defines an IPV as intentionally making false or misleading statements, 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 State counterpart, 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, either through Administrative Disqualification Hearings or referral to a court of appropriate jurisdiction...” It further provides that “Administrative disqualification procedures or referral for prosecution action must be

initiated whenever there is sufficient documentary evidence to substantiate that an individual has intentionally committed one (1) or more acts of intentional violation as defined in §1.9(A)(3) of this Part.”

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).

An Authorized Representative is a person designated by the head of the household or the spouse, or any other responsible member of the household, to act on behalf of the household in applying for program benefits or using SNAP benefits. See SNAP Regulation 218-RICR-20-00-1.2.11.A.1

A SNAP household can choose an 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 218-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) and (B)(1).

VII. FINDINGS OF FACT

1. Auditor Lackie testified that the investigation began on November 17, 2022, after the Agency received a hotline report claiming that the Respondent was selling his EBT benefits for drug money.
2. The Respondent is a household of one (1), consisting only of himself, and he does not report living with others whom he would customarily purchase and prepare meals together.

3. The designation of an Authorized Representative was not made by the Respondent at the time of application or any time thereafter, meaning that the Respondent was the only person authorized to use his EBT card.
4. ██████ made a balance inquiry on February 6, 2023, as evidenced by his telephone records. This was the day before the Respondent reported his EBT card was lost and was issued a new EBT card. At the time he made the inquiry, there was a balance of \$161.38 on the Respondent's EBT card.
5. On February 7, 2023, the Respondent reported his EBT card ending in ██████ stolen and received a new EBT card ending in ██████ changing the pin by calling from a DHS office location (401-462-1056).
6. On February 12, 2023, there were two EBT card swipes at a ██████ with card number ending in ██████ that resulted in a bad card being reported.
7. Security footage and receipts were obtained from ██████ regarding the two (2) bad card swipes on the Respondent's EBT card ending in ██████ on February 12, 2023. The footage shows an image of ██████ swiping that card on two (2) separate occasions and was shown that it was an invalid card. ██████ also made a telephone inquiry right after the bad card readings.
8. ██████ was viewed leaving the store and returning with a personal debit card and another person's EBT card, which he then used for the purchase. It was later confirmed that the debit card belonged to ██████
9. Auditor Lackie discovered that there were three (3) other phone numbers that were conducting EBT balance checks on the Respondent's EBT card. The telephone numbers belong to ██████ and ██████.
10. ██████ made balance inquiries for the Respondent's EBT card on several occasions prior to attempting to use, or using, the Respondent's EBT card. During the interview with ██████ and ██████ ██████ they disclosed that they have friends who share their EBT cards and PIN numbers with them.

11. Auditor Lackie then discovered that [REDACTED] had also made a purchase on February 3, 2023, prior to the bad card transactions that he attempted on February 12, 2023. This was at [REDACTED] in the amount of \$120.00, using the Respondent's EBT card ending in [REDACTED]. Still photographs and security footage from [REDACTED] on February 3, 2023, clearly shows [REDACTED] at the customer service window as well as walking out of the store. The receipt from that purchase shows that \$120.00 was used from the Respondent's EBT card.
12. Auditor Lackie also found that the Respondent's new EBT card ending in [REDACTED] had been used on April 1, 2023, at a [REDACTED] located in South Attleboro MA. The purchase followed two (2) bad card swipes for insufficient funds for the total purchase of \$338.12 and was ultimately completed using \$155.01 from the Respondent's EBT card. Video footage obtained from [REDACTED] clearly shows [REDACTED] loading items onto the conveyor belt, attempting twice to pay with an EBT card and being rejected, then a third time with some of the purchase going on the Respondent's card, some on another person's EBT card, and [REDACTED] paying the remainder with cash.
13. On September 5, 2023, Auditor Lackie, along with two (2) other Internal Auditors, conducted a recorded interview with [REDACTED] and [REDACTED]. They initially stated that they knew the Respondent because he lived down the street and [REDACTED] knew that the Respondent was incarcerated, and he had a small amount of funds on his EBT card (\$35.00- \$40.00). They were shown the security footage of their son ([REDACTED]) attempting to use the Respondent's EBT card and being rejected. They laughed and noted that the Respondent must have changed his PIN.
14. The Respondent applied for SNAP benefits on October 20, 2022. He signed the application under the Penalty of Perjury, where it stated that he understood the penalty for breaking any of the rules listed in the penalty warnings. The application clearly states, "DO NOT trade or sell (or attempt to trade or sell) EBT cards". By signing the application, he acknowledged that if he failed to provide complete and true answers, he would be breaking the law and would be subject to the penalty.

15. The BDN dated October 27, 2022, stated that SNAP benefits were increasing as of November 1, 2022, to \$155.00, and included the 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”.
16. Auditor Lackie accessed the Electronic Disqualified Recipient System and found that the Respondent has had no prior SNAP violations, therefore the State is seeking a twelve (12) month disqualification.
17. A SNAP packet dated May 6, 2024, was mailed to the Respondent at his address of record, [REDACTED]. The packet included the alleged fraudulent activity, the time frame it occurred, and the Waiver of Right to Administrative Disqualification Hearing. The SNAP packet states that the Respondent is being charged with “misuse” for the time period February 3, 2023, through April 1, 2023. 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.

18. VIII. DISCUSSION

The Agency maintains that the Respondent intentionally misused his EBT card by allowing unauthorized individuals who were not part of his SNAP household to use his EBT cards and PIN numbers to purchase food. Based on the evidence, it is clear that the Respondent committed an IPV from February 3, 2023, through April 1, 2023, 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 establishes that the Respondent is a household of one (1) and did not designate an AR pursuant to 218-RICR-20-00-1 §1.2.11(A)(1).

[REDACTED] and [REDACTED] statements during their interview confirmed that they had been given the Respondent’s EBT card and PIN number at some point. They acknowledged that the Respondent must

have changed his PIN number. It was confirmed during that interview that [REDACTED] was related to them (their adult son). [REDACTED] was seen on still photographs and security footage from [REDACTED] making a purchase on February 3, 2023, paying \$120.00 of that purchase with the Respondent's EBT card ending in [REDACTED]. [REDACTED] was also seen in still photographs and security video attempting to make a purchase at [REDACTED] on February 12, 2023; the receipt confirms that payment was attempted with the Respondent's EBT card ending in [REDACTED]. That purchase was ultimately not made due to the EBT card being cancelled.

[REDACTED], who did not appear to have any relationship with the [REDACTED] was clearly seen making purchases from [REDACTED] in South Attleboro, MA on April 1, 2023. She can be seen loading items onto the conveyor belt and a store employee scans them prior to her paying for the purchase. According to the receipt provided as evidence, \$155.01 worth of food was purchased using the Respondent's EBT card ending in 3543. At that time, the Respondent's monthly SNAP allotment was \$155.00. The security footage clearly shows [REDACTED], and not the Respondent, making the purchase.

Auditor Lackie noted the SNAP application that the Respondent signed under the Penalty for Perjury clearly includes the SNAP PENALTY WARNINGS. These warnings were repeated on the BDN he received on October 27, 2023, stating that any member of a household who intentionally breaks a SNAP rule will be banned from SNAP for one (1) 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 that there was a pattern of misuse involving the Respondent's EBT card, and that he allowed [REDACTED] and [REDACTED] to use his EBT card and PIN on three (3) occasions, with two (2) of these transactions being successful. The total of successful purchases totaled \$275.01.

Based on the above, it is clear that the Respondent intentionally misused his EBT card by allowing at least two individuals outside of his household to use his SNAP benefits to purchase food. This is evident based on the transaction history, security footage, and still 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 February 3, 2023, through April 1, 2023.

IX. CONCLUSION OF LAW

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

1. The Respondent is a household of one (1) with no AR. He is the sole authorized user of his EBT card and is responsible for his EBT card and PIN.
2. The Respondent was aware of the SNAP Penalty Warnings when he signed his October 20, 2023, application under the Penalty of Perjury.
3. The BDN dated October 27, 2023, again clearly stated his Rights, Responsibilities, and SNAP Penalty Warnings.
4. It is clear that the Respondent allowed people outside of his household access to his EBT card and PIN to purchase food on at least two (2) occasions.
5. The Agency has demonstrated by clear and convincing evidence that the Respondent committed an IPV of the SNAP regulations from February 3, 2023, through April 1, 2023, by allowing others to use his EBT card and PIN number to purchase food. The Respondent violated SNAP regulations 218-RICR-20-00-1 §1.9(C) and 7 C.F.R. §273016(c)(1) that define an IPV.

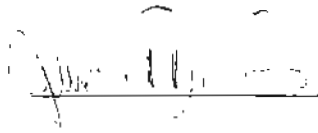
Consequently, the Respondent will not be able to participate in SNAP for twelve (12) months per 7 C.F.R. §273.16(b)(1)(i) and 218-RICR-20-00-1§1.9(A)(3)(c)(1), which states in pertinent part:

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.

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 based on the Respondent's misuse of his EBT card and PIN number.

AGENCY'S INTENTIONAL PROGRAM VIOLATION CHARGE IS GRANTED.

A handwritten signature in black ink, appearing to read "Jillian R. Rivers", is written over a horizontal line.

Jillian R. Rivers

Appeals Officer

NOTICE OF APPELLANT 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 [REDACTED]; copies were sent, via email, to DOA Representatives Timothy Lackie, Kimberly Seebeck, Brittny Badway; and DHS representatives, Denise Tatro, Iwona Ramian, Esq., and DHS Policy Office on this 24th day of September, 2024.

Samara M. Kendall