

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

DEPARTMENT OF HUMAN SERVICES

DOCKET No. 24-3882

v.

██████████

**DECISION**

**I. INTRODUCTION**

An Administrative Disqualification Hearing Officer conducted a telephonic hearing on the above-entitled matter on July 25, 2024. The Department of Administration, Office of Internal Audit, Fraud Detection and Prevention Unit (“Agency”), on behalf of the Department of Human Services (“DHS”), initiated this matter for an Administrative Disqualification Hearing 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 committed an IPV between February 24, 2023, and May 2, 2023, by misusing the Electronic Benefits Transfer (“EBT”) card, allowing unauthorized persons to make transactions using the Respondent’s SNAP benefits. The Agency seeks the Respondent to be charged with an IPV and be disqualified from SNAP for 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 Rhode Island General Law (“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 human services. 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 before the Administrative Disqualification Hearing Officer is whether the Respondent committed a SNAP IPV by intentionally making a false statement(s), misleading statement(s), making misrepresentation(s), concealing fact(s), withholding fact(s), or committing any act(s) that constitutes a violation of SNAP regulations 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 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 Administrative Disqualification 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. The following exhibits were presented as evidence at hearing:

- Exhibit #1 – Authorized Representative summary printout for the Respondent's Rhode Island Bridges ("RIB") case [REDACTED]
- Exhibit #2 – Individual summary printout for the Respondent's RIB case [REDACTED].

- Exhibit #3 – LexisNexis Accurint comprehensive phone number report for [REDACTED] and [REDACTED] (individually as ‘[REDACTED] and ‘[REDACTED] and collectively as ‘[REDACTED]’).
- Exhibit #3A – RIB household screen for the [REDACTED] DHS case showing both their phone numbers on file with DHS.
- Exhibit #3B – LexisNexis Accurint comprehensive phone number report for [REDACTED] ([REDACTED]).
- Exhibit #4 – Rhode Island Division on Motor Vehicles (“DMV”) license photographs of the Respondent, [REDACTED], [REDACTED], [REDACTED] and [REDACTED].
- Exhibit #5 – ebtData Warehouse printout of inquiries made on and transactions posted to the Respondent’s EBT card.
- Exhibit #6 – Video footage from Stop & Shop dated February 24, 2023.
- Exhibit #6A – a copy of two (2) receipts from Stop & Shop on February 24, 2023.
- Exhibit #6B – two (2) ebtEdge transaction details for the Respondent’s EBT card for the Stop & Shop transactions dated February 24, 2023.
- Exhibit #6C – still frame of an unknown male who used the Respondent’s EBT card at Stop & Shop on February 24, 2023.
- Exhibit #7 – Video footage from Target dated March 1, 2023.
- Exhibit #7A – a copy of the receipt from Target dated March 1, 2023, for the EBT card ending in 1996.
- Exhibit #7B – ebtEdge transaction detail for the Respondent’s EBT card for the Target transaction dated March 1, 2023.

- Exhibit #7C – still frame of an unknown female who used the Respondent’s EBT card at Target on March 1, 2023.
- Exhibit #8 – Video footage from Whole Foods Market dated March 2, 2023.
- Exhibit #8A – a copy of the receipt from Whole Foods Market dated March 2, 2023, for the EBT card ending in [REDACTED]
- Exhibit #8B – ebtEdge transaction detail for the Respondent’s EBT card for the Whole Foods Market transaction dated March 2, 2023.
- Exhibit #8C – still frame of an unknown female who used the Respondent’s EBT card at Whole Foods Market on March 2, 2023.
- Exhibit #9 – Video footage from Market Basket dated April 13, 2023.
- Exhibit #9A – a copy of the receipt from Market Basket dated April 13, 2023, for the EBT card ending in [REDACTED]
- Exhibit #9B – ebtEdge transaction detail for the Respondent’s EBT card for the Market Basket transaction dated April 13, 2023.
- Exhibit #9C – still frame of [REDACTED] who used the Respondent’s EBT card at Market Basket on April 13, 2023.
- Exhibit #10 – Video footage from BJ’s Wholesale Club dated May 2, 2023.
- Exhibit #10A – a copy of the receipt from BJ’s Wholesale Club dated May 2, 2023, for the EBT card ending in [REDACTED]
- Exhibit #10B – ebtEdge transaction detail for the Respondent’s EBT card for the BJ’s Wholesale Club transaction dated May 2, 2023.
- Exhibit #10C – still frame of [REDACTED], who used the Respondent’s EBT card at BJ’s Wholesale Club on May 2, 2023.

- Exhibit #11 – SNAP-2 Recertification Form received February 7, 2023, and signed by the Respondent.
- Exhibit #12 – SNAP Benefit Decision Notice (“BDN”), dated February 23, 2023, for the Respondent’s RIB case [REDACTED]
- Exhibit #13 – Interview recording from September 5, 2023, with Agency auditors interviewing [REDACTED]. (Another party, [REDACTED], was part of this interview and was involved in a separate investigation.)
- Exhibit #13A – R.I.G.L. §11-35-21 – Unauthorized interception, disclosure, or use of wire, electronic, or oral communication.
- Exhibit #13B – Electronic Disqualification Recipient System (“eDRS”) results for [REDACTED] show three (3) IPV’s between 1984 and 1991.
- Exhibit #14 – a copy of excerpts of SNAP regulations defining an IPV relied upon by the Agency.
- Exhibit #15 – (“eDRS”) results for the Respondent.
- Exhibit #16 – Individual – Summary printout from RIB of the Respondent.
- Exhibit #17 – a copy of excerpts of SNAP regulations relied upon by the Agency.
- Exhibit #18 – a copy of a 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 attend the hearing. In accordance with 7 C.F.R. §273.16(e)(4) and 218-RICR-20-00-1.22(K)(13), the hearing was conducted without the Respondent present or represented.

## **VI. RELEVANT LAW/REGULATIONS**

An IPV is defined as intentionally making false or misleading statements, misrepresenting, concealing, 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 SNAP benefits or EBT cards.” To determine whether an IPV has occurred, the State agency must conduct an administrative disqualification hearing to determine whether there is clear and convincing evidence that an IPV occurred. 7 C.F.R. §273.16(c) & 7 C.F.R. §273.16(e)(6).

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

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 customarily purchase and prepare meals together. 218-RICR-20-00-1.2.1(A)(1), (2), & (3).

An Authorized Representative can be appointed to a SNAP household and is authorized to conduct transactions with the household’s SNAP benefits. The Auth Rep is issued a separate EBT card. Any individual who has been disqualified from SNAP for fraud cannot be an Auth Rep during their disqualification period. 218-RICR-20-00-1.2.11(A)(2) & (D)(2).

SNAP recipients must keep their EBT card and personal identification number (“PIN”) safe from unauthorized use and immediately report any loss or theft of their EBT card. 218-RICR-20-00-1.16 (A)(7)(a) & (B)(1).

If there is a finding that an IPV of the SNAP regulations has occurred, the disqualification penalty is twelve (12) months for the first violation. 7 C.F.R. §273.16(b)(1)(i).

## **VII. FINDINGS OF FACT**

### 1. According to the Agency:

#### a. The Respondent submitted a SNAP Recertification on February 7, 2023.

- i. The Respondent did not appoint anyone as an Authorized Representative on this Recertification.
- ii. The Respondent signed under penalty of perjury that the information they provided was correct, that the Respondent understood the notice of rights and responsibilities, and that the Respondent understood the penalties for breaking a SNAP rule.
- iii. On page twelve (12), in bold print, the Respondent was informed, “DO NOT trade or sell (or attempt to trade or sell) EBT cards or use someone else’s EBT card for your household.”
- iv. On February 23, 2023, the Respondent received a SNAP BDN stating that SNAP was approved for \$281.00 from January 1, 2023, through June 30, 2023. The Respondent was listed on page two (2) as the only member of the SNAP household.

- a. On page eight (8) of this BDN, the Respondent was informed in bold print, “DO NOT trade or sell (or attempt to trade or sell) EBT cards or use someone else’s EBT card for your household.”
- v. The Respondent has an EBT card ending in 1996, to which the SNAP benefits are issued.
- b. [REDACTED] [REDACTED] and [REDACTED] phone numbers were all used to inquire about the Respondent’s SNAP balance on the Respondent’s EBT card between January 1, 2023, and May 2, 2023.
- c. Two (2) transactions occurred on the Respondent’s EBT card on February 24, 2023, at Stop & Shop, [REDACTED].
  - i. On February 24, 2023, [REDACTED] phone number was used to inquire about the Respondent’s EBT card balance.
  - ii. The Respondent’s EBT card was used to try to purchase \$74.56 of groceries, but it was denied due to insufficient funds.
  - iii. The Respondent’s EBT card was then used to purchase \$8.89 of these groceries because this was the balance on the Respondent’s EBT card.
  - iv. Video footage shows an unknown male making this purchase with the Respondent’s EBT card.
- d. One (1) transaction occurred on the Respondent’s EBT card on March 1, 2023, at Target, [REDACTED].
  - i. On March 1, 2023, [REDACTED] phone number was used to inquire about the Respondent’s EBT card balance.



- ii. The Respondent's EBT card was used to purchase \$77.39 of groceries.
  - iii. Video footage shows an unknown female making this purchase with the Respondent's EBT card.
- e. One (1) transaction occurred on the Respondent's EBT card on March 2, 2023, at Whole Foods Market, [REDACTED].
  - i. The Respondent's EBT card was used to purchase \$172.05 of groceries.
  - ii. Video footage shows the same unknown female who used the Respondent's EBT card at Target on May 1, 2023, making this purchase with the Respondent's EBT card.
- f. One (1) transaction occurred on the Respondent's EBT card on April 13, 2023, at Market Basket, [REDACTED].
  - i. On April 13, 2023, [REDACTED] phone number was used to inquire about the Respondent's EBT card balance.
  - ii. The Respondent's EBT card was used to purchase \$19.00 of groceries.
  - iii. Video footage shows [REDACTED] making this purchase with the Respondent's EBT Card.
- g. Two (2) transactions occurred on the Respondent's EBT card on May 2, 2023, at BJ's Wholesale Club, [REDACTED].
  - i. On May 1, 2023, [REDACTED] phone number was used to inquire about the Respondent's EBT card balance.
  - ii. The Respondent's EBT card was used to try to purchase \$421.00 of groceries, but it was denied due to insufficient funds.

- iii. The Respondent's EBT card was then used to purchase \$281.93 of these groceries because this was the balance on the Respondent's EBT card.
- iv. Video footage shows [REDACTED] making this purchase with the Respondent's EBT card. [REDACTED] was also present at BJ's with [REDACTED]  
[REDACTED]
- h. In an interview with RI Auditors, [REDACTED] stated that their friends would lend them their EBT cards to buy food. [REDACTED] would then return the EBT cards to their friends after shopping. If their friends ever needed a meal, they were welcome to come to their home and have whatever they had available to eat. [REDACTED] confirmed that the Respondent was one of these friends.
- i. The Respondent is not observed in the video footage from these five retail store transactions.
- j. To complete an EBT transaction, one needs the EBT card and associated PIN.
- k. An eDRS search showed that the Respondent had no existing IPV's. This would be the Respondent's first IPV of the SNAP regulations.
- l. The IPV date range on the Agency's exhibit #18 states the IPV occurred between February 24, 2023, and April 13, 2023. The Correct IPV date range is February 24, 2023, through May 2, 2023.
  - i. The ADH memo sent from the Office of Internal Audit shows the IPV date range from February 24, 2023, through May 2, 2023, and the Agency testified that this was the IPV date range.

## VIII. DISCUSSION

Based on the evidence presented at this administrative disqualification hearing, the Respondent's SNAP household consisted of only herself. No additional individuals were reported to DHS, and no Authorized Representatives were added to the Respondent's SNAP case.

██████████ was found to have committed three (3) different SNAP IPV's in the past, which permanently disqualified her from participating in SNAP. Because of this, ██████████ could not be included in the Respondent's SNAP household even if the Respondent wanted to add her. The record is also clear, via recorded conversations and RI DMV records, that the Respondent did not live with ██████████. SNAP regulations do not allow ██████████ to be included in the same SNAP household as the Respondent because they do not live together. Only the Respondent was part of the SNAP household when the alleged IPV occurred.

If an individual is not included in a SNAP household, an individual can be appointed as an Authorized Representative to a SNAP household. The evidence shows, however, that the Respondent had not appointed an Authorized Representative for the Respondent's SNAP household at any time prior to or during the IPV date range. Moreover, state regulation 218-RICR-20-00-1.2.11(D)(2) prohibits someone disqualified from SNAP due to fraud from being an Authorized Representative for a SNAP household while disqualified. Because ██████████ is permanently disqualified from SNAP, even if she were appointed as an Authorized Representative, ██████████ can not serve as an Authorized Representative for a SNAP household.

The issue on appeal is whether giving the Respondent's EBT card and PIN to another party is an intentional violation of SNAP rules. When the Respondent completed her SNAP Recertification, she was informed of the penalties for violating SNAP rules. This included, in

bold text on page twelve (12) of the Recertification, to not sell or trade EBT cards or use someone else's EBT card for their household. By signing the Recertification under penalty of perjury, the Respondent acknowledged that the information she provided was accurate and understood the notice of rights and responsibilities and the penalties for breaking a SNAP rule. The Respondent was also sent a SNAP BDN following her SNAP Recertification, which clearly showed that she was the only household member receiving SNAP. On page eight (8) of this BDN, the Respondent was informed again in bold text not to sell or trade EBT cards. The Respondent was clearly informed not to sell or trade EBT cards, and the Respondent clearly acknowledged that she understood the penalties for breaking a SNAP rule.

Finally, the evidence is clear that the Respondent was not the individual using the Respondent's EBT card to conduct SNAP transactions on February 24, March 1, March 2, April 14, and finally on May 2, 2023. Compared with the DMV records, video footage shows that [REDACTED] [REDACTED] an unknown male, and an unknown female conducted these SNAP transactions, not the Respondent. Transferring the Respondent's EBT card and PIN to make purchases by a third party constitutes an IPV.

#### **IX. CONCLUSION OF LAW**

After a careful review of the evidence and testimony presented at this administrative hearing, the Agency has presented clear and convincing evidence that:

1. The Respondent was the only member of her SNAP household.
2. The Respondent did not appoint an Authorized Representative for SNAP.
3. The Respondent was informed not to trade or sell EBT cards.

4. Transferring an EBT card and PIN to someone other than the intended SNAP recipient or Authorized Representative to purchase food for a different household constitutes an IPV of the SNAP regulations.
5. The Respondent committed an IPV between February 24, 2023, and May 2, 2023.
6. Consequently, the Respondent, as head of household, will not be able to participate in SNAP for twelve (12) months per Title 7 CFR 273.16 (b)(1)(i) and SNAP Regulation 218-RICR-20-00-1, Section 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 SNAP program for a period of one (1) year for the first (1<sup>st</sup>) violation.

**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 Respondent committed an IPV and is disqualified from participating in SNAP for twelve (12) months.

**AGENCY'S INTENTIONAL PROGRAM VIOLATION CHARGE IS GRANTED**

*/s/ Robert Pelosi*

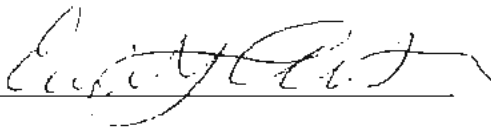
Administrative Disqualification Hearing Officer

**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 a true copy of the foregoing to [REDACTED]  
[REDACTED], via regular mail, postage prepaid. Copies were sent via email to Agency Representatives Timothy Lackie, Kimberly Seebeck, Brittny Badway, Iwona Ramian, and Denise Tatro on this 16th day of August, 2024.

  
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