

STATE OF RHODE ISLAND
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

RI Department of Human Services (DHS)

V.

██████████ (Respondent)

Docket Number 24-4435

DECISION

I. INTRODUCTION

The Department of Administration, Office of Internal Audit Fraud Detection and Prevention Unit (“Fraud Unit”), on behalf of DHS initiated this matter for an Administrative Disqualification Hearing (“ADH”).

The Agency held to examine the facts to prove that the Respondent committed an Intentional Program Violation (“IPV”) of the Supplemental Nutrition Assistance Program (“SNAP”) rules. The Agency claimed that the Respondent intentionally violated program rules regarding Household Composition from November 16, 2022, to April 23, 2023. The Agency sought that the Respondent be charged with an IPV and be disqualified from SNAP for a period of one (1) year.

An Administrative disqualification hearing was held on August 27, 2024, in accordance with the Administrative Procedures Act, RI General Laws (“R.I. Gen. Laws”) §42-35-1 and EOHHS regulation 210-RICR-10-05-2. The Respondent did not attend the telephonic hearing. Per the Code of Federal Regulations (“CFR”) (7 CFR. 273.16(e)(4)) the hearing was conducted without the Respondent present or represented. For the reasons detailed in this decision, the ADH has been decided against the Agency. For the reasons detailed in this decision, the ADH has been decided against the Agency.

II. JURISDICTION

EOHHS is authorized and designated by law R.I.G.L §42-7.2-6.1 and regulations (210-RICR-10-05-2) to be the entity responsible for legal service functions, including appeals and hearings, law interpretation and related duties of itself and four agencies; one of which is DHS.

III. ISSUES

The issues before this ADH Officer was whether the Respondent made false or misleading statements, or misrepresented, concealed or withheld facts; or committed 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, in accordance with regulations. (7 CFR 273.16(c)).

IV. STANDARD OF PROOF

The hearing authority shall base the determination of an IPV on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, an IPV as defined in paragraph (c) of this section (above). (7 CFR 273-16(e)(6)).

V. PARTIES AND EXHIBITS

The Agency was represented Brittany Badway, Internal Audit Manager, Office of Internal Audit, Fraud Unit. The Agency submitted the following evidence:

- Exhibit 1 A Motion to the Family Court to Modify Parenting Time and a printout of Child Support Payment received by the Respondent.
- Exhibit 2 SNAP renewal form received by DHS July 14, 2021.
- Exhibit 3 Benefits Decision Notice (“BDN”) sent July 14, 2021.
- Exhibit 4 Rhode Island Works (“RIW”) Six-month Interim Report (“IR”) received by DHS November 17, 2022.
- Exhibit 5 SNAP IR received by DHS December 29, 2022.
- Exhibit 6 The results of an online query of the Electronic Disqualified Recipient System (“eDRS”) of the Respondent, dated July 10, 2024.
- Exhibit 7 RI Bridges printout of the Individual Household screen.
- Exhibit 8 SNAP policy excerpts from the Rhode Island Code of Regulations (“RICR”).

- Exhibit 9 Copy of a packet sent from the Fraud Unit to the Respondent, dated July 12, 2024. The packet included a notice that informed of the IPV, a Waiver Agreement and a Waiver of Rights Form.

The Administrative record also contained the ADH hearing request from the Fraud Unit to EOHHS and notices sent to the Respondent from EOHHS that informed of the scheduled hearing date and time.

VI. RELEVANT LAW/REGULATIONS

Per the Code of Federal Regulations, Title 7 – Agriculture, Subtitle B – Regulations for the Department of Agriculture, Chapter 2 – Food and Nutrition Service, Subchapter C – Supplemental Nutrition and Food Distribution Program, Part 273 – Certification of Eligible Households (hereinafter “7 CFR 273”), the State is responsible for investigating any case of alleged IPV and ensuring that appropriate cases are acted upon, either thru an ADH or referral to a court of appropriate jurisdiction. It further states that Administrative disqualification procedures or referral for prosecution action should be initiated whenever there is sufficient documentary evidence to substantiate that an individual has intentionally made one or more acts of an IPV. (7 CFR 273.16(a).

The disqualification penalties of an IPV state that any member of a household who knowingly uses, transfers, acquires, alters or possess coupons, authorization cards, or access devices in any manner contrary to the Regulations of the Act, can be barred from SNAP for one year to permanently. The individual may also be fined up to \$250,000, imprisoned up to 20 years, or both. The State agency shall inform the household in writing of the disqualification penalties for an IPV each time it applies for Program benefits. The penalties shall be in clear, prominent, and boldface lettering on the application form. (7 CFR 273.16(d)). Individuals found to have committed an IPV either through an ADH or by a Federal, State or local court, or who have signed either a waiver of right to an ADH or a disqualification consent agreement in cases referred for prosecution, shall be ineligible to participate in the Program: (i) For a period of twelve months for the first IPV; (ii) For a period of twenty-four months upon the second occasion of any IPV; and (iii) Permanently for the third occasion of any IPV. (7 CFR 273.16(b)). The

same act of an IPV repeated over a period of time must not be separated so that separate penalties can be imposed. Individuals found to have committed an IPV either through an ADH or by a Federal, State or local court, or who have signed either a waiver of right to an ADH or a disqualification consent agreement in cases referred for prosecution, shall be ineligible to participate in the Program: (i) For a period of twelve months for the first IPV; (ii) For a period of twenty-four months upon the second occasion of any IPV; and (iii) Permanently for the third occasion of any IPV. (7 CFR 273.16(b)). The same act of an IPV repeated over a period of time must not be separated so that separate penalties can be imposed.

Per 218-RICR-20-00-1.2.2(A) certain individuals living with others or groups of individuals living together must be considered customarily purchasing food and preparing meals together, even if they do not do so, and therefore must be included in the same household.

VII. FINDINGS OF FACTS

1. The Respondent was receiving SNAP benefits for a household of 3, themselves and two children.
2. Exhibit 2, page 9, the Respondent signed and agreed to the Penalty Warning that stated: "My signature below indicates that I have read or have had read to the Rights and Responsibilities attached to this form. Under penalty of perjury, I attest that all my answers on this renewal form are correct and completed to the best of my knowledge, including information about citizenship and immigration status and the identity of the minor children named in this form. I understand that I am breaking the law if I purposely give wrong information and can be punished under federal law, state, or both."
3. Exhibit 3, the Respondent was informed of the reporting instructions of a simplified reporter.
4. Exhibit 3, page 8 the Respondent was informed "You have a responsibility to supply accurate information about your income, resources and living arrangement on this application."
5. Exhibit 4's and 5 pointed to the following: Answer all questions, correct any incorrect information, add any new information, sign and date, attach all required documents and return the

completed form; a chart which lists the Respondent and two children as current household members and asks, "are these people still living in your home?" To which the Respondent answered "Yes"; the penalties were again signed and therefore agreed to by the Respondent.

6. On October 5, 2022, per an Emergency Order from the Family Court, the father of the two children was awarded temporary sole custody and temporary placement of them, the matter was rescheduled to December 25, 2022.

7. A Motion to Modify Parenting time was submitted by the Respondent on March 27, 2023, in which the Respondent requests the Family Court for parenting time on Friday and Saturdays, was presented by the State to prove the children were still not in the household at that time.

8. The Respondent continued to receive SNAP benefits for both children and did not report they were no longer a part of the household.

9. The Office of Child Support Services referred this matter to the Fraud Unit on March 27, 2023.

10. After an investigation, the Fraud Unit determined the Respondent was an IPV and referred this matter on July 17, 2024, to EOHHS for this ADH.

VIII. DISCUSSION

The Agency testified that per 218-RICR-20-00-1.9.C, an IPV is making a false or misleading statement, misrepresenting, concealing, or withholding facts. It is the Agency's position that the Respondent concealed and withheld facts on the SNAP renewal form and on the RIW and SNAP IR forms. There is no question that the Respondent concealed and withheld the fact that her two children no longer lived with her on the RIW and SNAP IR forms, however, this is not the end of the inquiry. This proceeding is to determine if the Respondent, committed and intended to commit an IPV. The regulations clearly require the State to notify applicants of the consequences of committing an IPV and of the SNAP penalty warnings. Because there was no evidence, much less clear and convincing evidence presented that the State notified the applicant of the consequences of an IPV, it cannot be determined that an IPV occurred.

IX. CONCLUSION OF LAW

Upon a on a review of the Administrative record, as a whole, including evidence presented and testimony given, this ADH Officer concluded the following reason for this decision:

Per 7 CFR 273.16(d), the State agency shall inform the household in writing of the disqualification penalties for an IPV each time it applies for Program benefits, in clear, prominent, and boldface lettering on the application form.

The administrative record was void of any notification that the SNAP penalty warnings or the disqualification penalties of an IPV were provided to the Respondent.

X. DECISION

Based on the foregoing Findings of Facts, Conclusion of Law, evidence, and testimony, it is found by this ADH Officer that a final order shall be entered against the Agency's request for an IPV, there charge is denied.

/s/Holly Young | ADH Officer | Executive Office of Health and Human Services

NOTICE OF APPELLANT RIGHTS

This Final Order constitutes a final order of the Departments of Human Services pursuant to the RI General Laws §42-15-12. Pursuant to RI 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]
[REDACTED]; copies were sent electronically to agency representatives Kimberly Seebeck, Brittny Badway, Iwona Ramian, Esq., Denise Tatro, Kimberly Rauch, Jenna Simeone and the DHS Policy Unit. On this 10th day of September, 2024.

Richard A. Allen