

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

DEPARTMENT OF HUMAN SERVICES

V.

DOCKET No. 24-4543

██████████

DECISION

I. INTRODUCTION

An Administrative Disqualification Hearing Officer conducted a telephonic hearing on the above-entitled matter on August 28, 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 December 5, 2022, and March 8, 2024, 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 (“Auditor 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 Accurant comprehensive phone number report for [REDACTED] [REDACTED] and [REDACTED] [REDACTED] (individually as [REDACTED] and [REDACTED] and collectively as “[REDACTED] [REDACTED]”).
- Exhibit #3A – RIB household screen for [REDACTED] DHS case showing both their phone numbers on file with DHS.
- Exhibit #3B – LexisNexis Accurant comprehensive phone number report for [REDACTED] ([REDACTED]).
- Exhibit #4 - Rhode Island Division of Motor Vehicles (“DMV”) license photographs of the Respondent, [REDACTED] [REDACTED] [REDACTED] and [REDACTED].
- Exhibit #5 – ebData Warehouse printout of inquiries made on and transactions posted to the Respondent’s EBT card.
- Exhibit #5A – [REDACTED] info printout for [REDACTED].
- Exhibit #6 – [REDACTED] receipt dated December 5, 2022.
- Exhibit # 6A – Copy of the EBT transaction for the purchase at [REDACTED].
- Exhibit #7 – [REDACTED] receipt dated January 4, 2023.
- Exhibit #7A – Copy of the EBT transaction for the purchase at [REDACTED].
- Exhibit #8 – Video clip from [REDACTED] on February 3, 2023, of [REDACTED] cashing out.
- Exhibit #8A – [REDACTED] receipt dated February 3, 2023.
- Exhibit #8B – Copy of the EBT transaction for the purchase at [REDACTED].
- Exhibit #8C – Photograph of [REDACTED] cashing out at [REDACTED] on February 3, 2023.
- Exhibit #9 – Respondent’s Application for SNAP Benefits, dated October 17, 2022.
- Exhibit #10 – Benefits Decision Notice (“BDN”), dated October 20, 2022.
- Exhibit #11 – Recording of conversation between Investigator Auditors and [REDACTED].
- Exhibit #11A – Copy of Title 11 Criminal Offenses R.I. General Laws 11-35-21

- Exhibit #11B – Copy of [REDACTED] previous IPVs and eDRS search results, dated March 7, 2024.
- Exhibit #12 – Copy of Respondent’s requested EBT cards.
- Exhibit #12A – Excessive Replacement Card Notice, dated May 30, 2024.
- Exhibit #13 – ebtData Warehouse - Client Transaction Search, dated June 5, 2024.
- Exhibit #13B – RIBridges Relationship to Individual search result.
- Exhibit #13C – RIBridges Household Information search result.
- Exhibit #13D – Secure Accurint Phone Detail Report.
- Exhibit #14 – Copy of attempted EBT transactions from [REDACTED] and [REDACTED]
- Exhibit #14A – Photographs of [REDACTED] entering [REDACTED].
- Exhibit #14B Copy of receipt from [REDACTED] dated March 4, 2024.
- Exhibit #14C – Copy of EBT merchant transactions at [REDACTED] dated March 4, 2024.
- Exhibit #15 – Copy of the EBT pin reset request which occurred on March 4, 2024.
- Exhibit #16 – Photographs of [REDACTED], [REDACTED] and [REDACTED] foster child, cashing out and exiting [REDACTED] on March 5, 2024.
- Exhibit #16A – Copy of the [REDACTED] receipt from March 5, 2024.
- Exhibit #16B Copy of the EBT transaction from W [REDACTED] dated March 5, 2024.
- Exhibit #17 – Video footage from [REDACTED], dated March 8, 2024.
- Exhibit #17A – Copy of receipt from [REDACTED], dated March 8, 2024.
- Exhibit #17B – Copy of the transaction attempts from [REDACTED], dated March 8, 2024.
- Exhibit #17C – Photograph of [REDACTED] shopping at [REDACTED], dated March 8, 2024.
- Exhibit #18 – Voice recording of Auditor Lackie and Respondent, dated April 8, 2024.
- Exhibit #19 – Rhode Island Regulation 218-RICR-20-00-1.9C defining Intentional Program Violation.

- Exhibit #20 – Electronic Disqualification Recipient System (“eDRS”) results for Respondent, dated March 27, 2024.
- Exhibit #21 – DHS Individual Summary screen for Respondent.
- Exhibit #22 – Copy of Rhode Island regulations 218-RICR-20-00-1.2.1.A, 2018-RICR-20-00-1.2.11.A.1, 218-RICR-20-00-1.9.C and 218-RICR-20-00-1.13.1.A.2.
- Exhibit #23 – Office of Management & Budget Important SNAP Notice, dated March 29, 2024.
- Exhibit #24 - Office of Management & Budget Important SNAP Notice, dated May 8, 2024.
- Exhibit #25 - Office of Management & Budget Important SNAP Notice, dated June 10, 2024.
- Exhibit #26 – Contact Preference Update form, dated December 13, 2023.
- Exhibit #27 – An email from Auditor to Respondent, dated June 10, 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. Auditor Lackie testified that the Respondent submitted a SNAP Application on October 17, 2022. The Respondent did not appoint anyone as an Authorized Representative on this application or identify any other household members.
2. 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.
3. On October 20, 2022, the Respondent received a SNAP BDN stating that SNAP was approved for \$281.00 from October 1, 2022, to March 31, 2023. 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."

4. The Respondent has an EBT card ending in [REDACTED] to which the SNAP benefits are issued.
5. All of the [REDACTED] phone numbers were used to inquire about the SNAP balance on the Respondent's EBT card between January 1, 2023, and March 8, 2024.
6. Numerous transactions were made using Respondent's EBT card.
 - a. The first purchase on the card was on December 5, 2022, at [REDACTED] [REDACTED] when the Respondent's EBT card was used to purchase \$399.10 of groceries but was denied for insufficient funds. The Respondent's card was then approved for a purchase at [REDACTED] for \$195.11.
 - b. The second purchase occurred on January 4, 2023, at [REDACTED] [REDACTED].
 - i. The Respondent's EBT card was used to purchase \$362.57 of groceries, but was denied for insufficient funds. The Respondent's card was then approved on the same date and location for \$200.00.
 - c. The third purchase occurred on February 3, 2023, at [REDACTED] [REDACTED].
 - i. The Respondent's EBT card was used to purchase \$423.76 of groceries but was denied for insufficient funds. The Respondent's card was then approved on the same date and location for \$282.00.
 - ii. Video footage captured the [REDACTED] making the above-described purchases.
 - iii. Photograph captured of the [REDACTED] cashing out of each [REDACTED] location for each purchase described above.

- d. Again on March 4, 2024, at [REDACTED], the [REDACTED] attempted to make a purchase twice, but each attempt was denied because an invalid pin was entered.
- i. Photographs that were submitted into evidence show the [REDACTED] exiting the [REDACTED] on March 4, 2024, however, the Respondent was not shown leaving the store at any time that day.
- e. A fourth purchase occurred on March 5, 2024, at [REDACTED], for the amount of \$148.44, at which time a photograph, submitted into evidence, showed the [REDACTED] and their foster child exiting the store. The Respondent did not appear in the photographs and was otherwise not observed leaving the store any time that date.
- f. A fifth purchase occurred on March 8, 2024, at [REDACTED]. A Video submitted into evidence shows the [REDACTED] cashing out and a photograph shows the [REDACTED] leaving the store. Respondent was not shown in the video or photographs submitted, nor was he otherwise shown in or leaving the store on that date.
7. In an interview with RI Auditors, the [REDACTED] stated that their friends would lend them their EBT cards to buy food. The [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.
8. An eDRS search showed that the Respondent had no existing IPV's. This would be the Respondent's first IPV of the SNAP regulations.
9. [REDACTED] is permanently disqualified from the SNAP program due to three prior IPV's, which occurred between 1984 and 1991.

10. Respondent admitted to Auditor Lackie that he allowed he [REDACTED] to use his card, as he was not aware that it was fraud, despite him signing under penalty of perjury on his application. When asked whether he provided the [REDACTED] his PIN, he replied “How else are you gonna use the card”, essentially admitting that he provided the [REDACTED] with the PIN.

VIII. DISCUSSION

Based on the evidence presented at this administrative disqualification hearing, the Respondent’s SNAP household consisted of only himself. No additional individuals were reported to DHS, and no Authorized Representatives were added to the Respondent’s SNAP case. Accordingly, none of the [REDACTED] should have been using the Respondent’s EBT card to make purchases as this is a violation of the SNAP rules.

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 his SNAP Application, he was informed of the penalties for violating SNAP rules. This included, in hold text on page thirty-two (32) of the Application, to not sell or trade EBT cards or use someone else’s EBT card for their household. By signing the Application under penalty of perjury, the Respondent acknowledged that the information he 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 his SNAP Application, which clearly showed that he 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 he understood the penalties for breaking a SNAP rule.

Finally, the evidence is clear that the [REDACTED] not the Respondent made the SNAP transactions on December 5, 2022, January 4, 2023, February 3, 2023, March 4, 2024, March 5, 2024, and March 8, 2024. As stated above, transferring the Respondent’s EBT card and PIN to make purchases by a third party constitutes an IPV.

IX. CONCLUSION OF LAW

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

1. The Respondent was the only member of his 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 December 5, 2022, and March 5, 2024.
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 (1st) 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/Jenna Vilaro

Administrative Disqualification Hearing 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 foregoing to [REDACTED]; copies were sent, via email, to Respondent at [REDACTED], and Agency Representatives Timothy Lackie, Kimberly Seeheck, Brittny Badway, Iwona Ramian ESQ., Denise Tatro, Kimberly Rauch and Jenna Simeone on this 26th day of September, 2024.

[Signature]