

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

RI DEPARTMENT OF HUMAN
SERVICES

DOCKET No. 25-0026

V.

[REDACTED]

DECISION

I. INTRODUCTION

A Microsoft Teams hearing on the above-entitled matter was conducted on Wednesday, February 26, 2025, at 9:00 a.m. and the Respondent, [REDACTED], also known as [REDACTED], declined the option of a video hearing. 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 (ADH) to examine the charge that the Respondent had committed an Intentional Program Violation (IPV) of the Supplemental Nutrition Assistance Program (SNAP) regulations. The Agency argues that the Respondent fraudulently used her late mother [REDACTED] SNAP benefits from March 20, 2023, until September 21, 2023. The Agency is seeking that the Respondent be charged with an IPV and be disqualified from SNAP for a period of 12 months. For the reasons discussed in more details below, the ADH has been decided in the Agency's favor.

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 or not the Respondent committed a SNAP IPV by intentionally making a false statement, or by misrepresenting, concealing, or withholding facts to receive SNAP benefits she was not entitled to, in accordance with Federal and Departmental policy as set forth below.

IV. STANDARD OF PROOF

The ADH Officer is required to carefully consider the evidence and determine by clear and convincing evidence if an IPV occurred. The Agency's burden is to support claims with clear and convincing evidence that requires they present clear, direct, and convincing facts that the ADH 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

Present for the Agency was Brittny Badway (Audit Manager Badway), Internal Audit Manager for the Fraud Detection and Prevention Unit, who provided testimony based on the facts in determining an IPV of the SNAP regulations. The following exhibits were presented as evidence by the Agency:

- Exhibit #1: Authorized Representative (AR) profile for the Respondent.
- Exhibit #2: Printout of the Respondent's phone number [REDACTED].
- Exhibit #3: Recertification/Renewal Notice (Recertification), signed June 28, 2021.
- Exhibit #3a: Regulation 7 C.F.R. 273.2 (n)(1) regarding AR's reporting responsibilities during the certification period.
- Exhibit #4: Benefits Decision Notice (BDN), dated June 30, 2021.
- Exhibit #5a: SOLQ interface from the DHS eligibility system for [REDACTED], showing her date of death as March 17, 2023.
- Exhibit #5b: The mother's obituary from [REDACTED].
- Exhibit #6: BDN, dated September 2, 2023.
- Exhibit #7: Benefit issuance detail from April 2023 through September 2023.

- Exhibit #8: EBT card transactions from March 20, 2023, through August 21, 2023.
- Exhibit #9: Balance inquiries made regarding the mother's EBT card from April 3, 2023, until September 21, 2023.
- Exhibit #10: Case note from Eligibility Technician Gina Lopes (ET Lopes), dated September 21, 2023.
- Exhibit #11: Electronic Disqualified Recipient System (eDRS) search results stating no previous SNAP disqualifications for the Respondent.
- Exhibit #12: Individual Household Summary screen from the DHS eligibility system.
- Exhibit #13: Cited excerpts from the Rhode Island Code of Regulations for SNAP regarding IPV violations and disqualification penalties, 218-RICR-20-00-1.9(A)(3)(c) & 218-RICR-20-00-1.9(c).
- Exhibit #14: An Important SNAP Notice (SNAP packet 1), dated December 18, 2024.
- Exhibit #15: An Important SNAP Notice (SNAP packet 2), dated December 23, 2024.

The Respondent appeared, represented herself and did not submit any evidence.

VI. RELEVANT LAW/REGULATIONS

7 C.F.R. §273.16, entitled “Disqualification for Intentional Program Violation” (c), defines an IPV as intentionally making false or misleading statement, 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 IPV has occurred, 7 C.F.R. §273.16(e)(6), requires the State Agency to conduct an ADH and to determine whether there is clear and convincing evidence that an IPV occurred.

Similarly, the Rhode Island regulation 218-RICR-20-00-1.9 entitled “Intentional Program Violations” (A) provides that the Office of Internal Audit is responsible for investigating any case of alleged IVP and ensuring that appropriate cases are acted upon through an ADH whenever there is

sufficient documentary evidence to substantiate that an individual has committed IPV. Like its federal counterpart, the R.I regulation §1.9(B) requires that “clear and convincing evidence” demonstrates that the household member(s) committed or intended to commit an IPV, as defined in §1.9(C).

Per Rhode Island regulation 218-RICR-20-00-1.9(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 can choose an AR to conduct SNAP transactions on behalf of the SNAP household. 218-RICR-20-00-1.16(C)(1) and 218-RICR-20-00-1.2.11(A). Per 7 C.F.R. §273.2(n)(1), the AR may also carry out household responsibilities during the certification period, such as reporting changes in the household’s income or other household circumstances in accordance with 7 C.F.R. §273.12(a) and §273.21.

VII. FINDINGS OF FACT

1. The investigation commenced upon receipt of a referral from DHS on September 21, 2023, claiming that the Respondent, who was the AR on her mother’s SNAP case, fraudulently used her mother’s SNAP benefits after she passed away on March 17, 2023.
2. The Respondent has been the AR on her mother’s SNAP case since around July 2019, and the Respondent’s phone number is [REDACTED], which is the number listed in her mother’s case, Audit Manager Badway testified. The other number listed in the case is [REDACTED], which belonged to the Respondent’s mother, the Respondent testified.
3. The Respondent called DHS on September 21, 2023, asking where the SNAP benefits went that were on her mother’s EBT card. ET Lopes told the Respondent the case closed because the client passed away; the Respondent stated she was aware the client passed away but was told benefits on the card could still be used. ET Lopes explained that SNAP benefits were only supposed to be used for the client, and that benefit use after the date of death is considered fraudulent.

4. The Respondent did not report that her mother passed away to DHS until the EBT card was deactivated in September 2023 – when she called DHS to discuss what happened to the benefits on it.
5. A BDN dated September 2, 2023, was sent to the Respondent notifying her that her mother's SNAP benefits were ending as of September 30, 2023, because her mother was no longer a part of the household. It stated, "because all eligible members of your SNAP household are deceased, all unused SNAP benefits will be removed from your EBT card." Page 6 stated "You have a RESPONSIBILITY to supply accurate information about your income, resources and living arrangements on this application," and Pages 7 and 8 outlined the SNAP PENALTY WARNINGS, stating "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" and "DO NOT lie or hide information to get or continue to get SNAP benefits that your household should not get."
6. SNAP benefits in the amount of \$281 per month were issued to the mother from April 2023 through September 2023, for a total of \$1,686.00.
 - a) The mother's EBT card was used 46 times from March 20, 2023, through August 21, 2023, at various locations in Providence and North Providence.
 - b) The last attempted swipe was September 14, 2023, which was declined.
 - c) From April 3, 2023, through September 21, 2023, nine balance inquiries were made about the card: three from the Respondent's phone number and six from the mother's phone number.
7. The Recertification was signed by the Respondent on June 28, 2021, under penalty for perjury, indicating she read the Rights and Responsibilities.
8. A BDN was sent to the mother in care of the Respondent on June 30, 2021, notifying her that her SNAP benefits were being renewed, with the eligibility period from August 1, 2021, through July 31, 2023.

- a. Page 2 stated Changes You Must Report For SNAP: "You must tell us about changes in your household within 10 days of the change." Examples included someone moving into or out of the household.
 - b. Page 6 stated responsibilities, and the responsibility to supply accurate information.
 - c. Page 7 outlined 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."
9. Two SNAP packets were sent from the Fraud Unit to the Respondent at [REDACTED], one dated December 18, 2024, and another dated December 23, 2024. The SNAP packets included the alleged fraudulent activity, time frame it occurred, the opportunity to dispute the charge and/or sign and return the waiver. The first notice incorrectly stated the time period for the alleged fraudulent use of SNAP benefits; the second notice correctly stated the time period for the alleged fraudulent use of SNAP benefits, which was from March 20, 2023, to September 21, 2023. It included the Waiver of Right to an Administrative Disqualification Hearing, the proposed penalty period, and the Waiver Agreement.
10. Audit Manager Badway concluded that the Respondent violated SNAP regulation 7 C.F.R. 273.16(c) by failing to inform DHS of her mother's passing, which resulted in \$1,686.00 in SNAP benefits being issued to the card, and by continuing to fraudulently use and inquire about her mother's EBT card after she passed away. Audit Manager Badway said the Respondent had an obligation to report her mother's death to DHS in 10 days, as stated in the June 30, 2021, BDN, and also was aware that if she committed any act that constitutes a violation of SNAP, she would be held responsible, as stated in the BDNs and Recertification.
11. Audit Manager Badway concluded that the Agency believes the evidence is clear and the Respondent should be found to have committed an IPV and be disqualified from the SNAP program for 12 months. She said she is subject to a possible overpayment claim by the Rhode Island Claims, Collections and Recovery Unit.

12. An Advance Notice of Administrative Disqualification Hearing was sent by first class mail to the Respondent's address of record. The notice stated the hearing was scheduled on February 26, 2025, at 9:00 a.m. The notice again stated the violation period, reason, and disqualification penalty. The Waiver of Right to the hearing and Waiver Agreement were included with the notice. In accordance with 7 C.F.R. §273.16(e)(3) and 218-RICR-20-00-1 §1.23(K)(6), EOHHS provided at least 30 days advance notice in writing of the scheduling of the disqualification hearing and the hearing was held accordingly.
13. The Petitioner testified she shops at the stores that Audit Manager Badway cited, and thought the funeral home would notify Social Security "and everywhere else" about her mother's passing, or she would have done so.
14. The Petitioner testified she is willing to take responsibility for the transactions on the EBT card because she was in charge of it, but testified she did not use the EBT card after her mother passed away, and would leave it at her mother's house.

VIII. DISCUSSION

The Agency maintains that the Respondent engaged in fraudulent use of SNAP benefits by using her deceased mother's EBT card and PIN number to purchase food 46 times after she passed away on March 17, 2023, until DHS deactivated the card in September 2023. It is undisputable that the Respondent called DHS on September 21, 2023, about the SNAP closure. It was only then, Audit Manager Badway testified, that the Respondent acknowledged that her mother had passed away, six months after the fact, and after a total of \$1,686.00 had been issued to the card. If one were not using the benefits, the conversation between the Respondent and DHS instead may have centered around what to do with a card belonging to a deceased SNAP recipient, not what happened to the benefits on it. Furthermore, it also is clear that the EBT card balance inquiries were made from the Respondent's phone number, and the mother's phone number, with all but one of the nine inquiries occurring after the card had been deactivated.

The record consists of testimony and evidence from the Agency. The evidence establishes that the Respondent was her mother's AR, pursuant to 218-RICR-20-00-1.12.11(A), and therefore was in control of the EBT card and its use.

The Respondent testified she would take responsibility for what happened with the card because she was the one in charge of it. The Respondent testified that she told ET Lopes "thank God I didn't use the card yet," but that statement was not captured in ET Lopes' case note, and evidence points to the contrary because the card was clearly being used in the six months after her mother passed away.

While the Respondent denied using the EBT card, and told Audit Manager Badway others had access to it, she could not say exactly who had access and did not know if her mother had shared the PIN number with anyone else. The Respondent also told Audit Manager Badway that she could not blame others for this issue.

Audit Manager Badway stated the Respondent signed the Recertification under the Penalty for Perjury. The Respondent also received the June 30, 2021, BDN, stating changes in the household must be reported within 10 days of the change, and informing her of her rights and responsibilities, specifically, to supply accurate information, and to not lie or hide information to get or continue to get SNAP benefits that the household should not get. In addition, the BDN included SNAP PENALTY WARNINGS, and consequences for intentionally breaking a SNAP rule, which include being barred from SNAP for one year to permanently.

IX. CONCLUSION OF LAW

After careful review of the testimony and evidence presented at the Administrative Hearing, this Appeals Officer concludes:

1. The Respondent violated SNAP regulations 218-RICR-20-00-1.9(C) and 7 C.F.R. 273.16(c), that define an IPV.

2. The Respondent was the AR for her mother, and was the one responsible for the EBT card, conducting SNAP transactions on behalf of the SNAP household and carrying out household responsibilities during the certification period.
3. The Respondent signed the June 1, 2021, SNAP Recertification/Renewal Notice under the penalty of perjury, indicating she was aware of her Rights and Responsibilities, and that she understood she would be breaking the law if she purposely gave wrong information.
4. The BDN dated June 30, 2021, again clearly stated her Rights and Responsibilities, and the SNAP Penalty Warnings.
5. The Agency has demonstrated by clear and convincing evidence that the Respondent committed an IPV of the SNAP Regulations from March 20, 2023, through September 21, 2023.

X. DECISION

Based on the foregoing Findings of Fact, Conclusions of Law, evidence, and testimony, the Agency has demonstrated by clear and convincing evidence that the Respondent committed an IPV of the SNAP Regulations. It is ordered that the Agency's request for an IPV against the Respondent is granted. Consequently, as this is the Respondent's first IPV, she will be barred from participation in SNAP for 12 months, per 7 C.F.R. §273.16(b)(1)(i) and 218-RICR-20-00-1.9(A)(3)(a)&(c)(1).

AGENCY'S INTENTIONAL PROGRAM VIOLATION CHARGE IS GRANTED

Lori Stabile

Lori Stabile

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 § 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 Agency representatives Brittny Badway, Kirsten Cornford, Kimberly Seebeck, Iwona Ramian, Esq., Denise Tatro, Kimberly Rauch and Jenna Simeone, and the DHS Policy Office on this

4th day of March, 2025.

