

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

RI DEPARTMENT OF HUMAN
SERVICES

DOCKET No. 25-2670

V.

[REDACTED]

DECISION

I. INTRODUCTION

A Microsoft Teams telephonic hearing on the above-entitled matter was conducted by an Administrative Disqualification Hearing Officer on Monday, July 21, 2025. The Department of Administration, Office of Internal Audit, Fraud Unit (Agency), on behalf of the Rhode Island Department of Human Services (DHS), initiated this matter for an Administrative Disqualification Hearing to examine the charge that Francis De Jesus-Cruz, the Respondent, committed an Intentional Program Violation (IPV) of the Supplemental Nutrition Assistance Program (SNAP) regulations. The Agency charges that the Respondent engaged in trafficking of his SNAP benefits on June 2, 2021. It is unclear why the Agency took more than four years to schedule a hearing on the IPV. The Agency is seeking that the Respondent be disqualified from SNAP for a period of 12 months. For the reasons discussed in more detail below, the Administrative Disqualification Hearing has been decided against the Agency.

II. JURISDICTION

The Executive Office of Health and Human Services (EOHHS) is authorized and designated by R.I. General Laws § 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 trafficking his SNAP benefits.

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. 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 Code of Federal Regulations (C.F.R.) § 273.16(e)(6) & 218-RICR-20-00-1.9(B).

V. PARTIES AND EXHIBITS

Present for the Agency was Fraud Internal Auditor Timothy Lackie (Auditor Lackie), who provided testimony and evidence regarding the case. The following exhibits were presented as evidence:

- Exhibit #1: Cited excerpt from the Rhode Island Code of Regulations for SNAP, 218-RICR-20-00-1.9(C) – Intentional Program Violations.
- Exhibit #2: Trafficking definition in the Code of Federal Regulations – 7 C.F.R. § 271.2.
- Exhibit #3: Electronic Benefit Transfer (EBT) Edge transactions and Wal-Mart receipt dated June 2, 2021.

- Exhibits #4 and #4a: Investigative Summary prepared by Agency, including conviction sheet, case summary, and GoLocalProv news article.
- Exhibit #5: Cited excerpts from 218-RICR-20-00-1.2.1(A) – General Household Definition, and 218-RICR-20-00-1.2.11(A)(1) – Authorized Representatives.
- Exhibit #6: Benefits Decision Notice (BDN) dated January 9, 2021.
- Exhibit #7: DHS Application for Assistance (DHS-2) dated and stamped May 25, 2021.
- Exhibit #8: Electronic Disqualified Recipient System (eDRS) results for the Respondent.
- Exhibit #9: The Respondent’s RI Bridges (DHS eligibility system) Individual Summary verification printout.
- Exhibit #10: An Important SNAP Notice/waiver packet (SNAP packet) dated May 17, 2025.

The Respondent did not attend the hearing. In accordance with 7 C.F.R. § 273.16(e)(4) and 218-RICR-20-00-1.23(K)(13), the hearing was conducted without the Respondent present or represented.

VI. RELEVANT LAW/REGULATIONS

7 C.F.R. § 273.16, 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, 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 IPV and ensuring that appropriate cases are acted upon through an Administrative Disqualification Hearing whenever there is sufficient documentary evidence to substantiate that an

individual has committed an 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 year.

Trafficking is the “buying, selling, stealing, or otherwise effecting an exchange of SNAP benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone” or “attempting to buy, sell, steal, or otherwise affect an exchange of SNAP benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by manual voucher and signatures, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone.” 7 C.F.R. § 271.2.

VII. FINDINGS OF FACT

1. In 2021, the Agency received an anonymous tip that M&T Supermarket (supermarket) workers at 1059 Broad Street, Providence, Rhode Island, were engaging in illegal acts or practices contrary to the laws and regulations governing SNAP. The investigation revealed that DHS clients sold their EBT cards to the supermarket in exchange for cash, store credit, food, or to clear debt with the store. Supermarket workers then used the EBT cards to purchase large quantities of food items from online retailers such as Walmart, Amazon, and BJ’s Wholesale Club and had the items delivered to the supermarket.
2. In 2022, the Agency and a USDA Food and Nutrition Service special investigator interviewed four DHS clients (none of whom were the Respondent) whose EBT cards were used to place

Internet orders for food items at the supermarket. Some of the clients admitted that they sold their SNAP benefits to the supermarket in exchange for cash and/or to trade benefits. One client told investigators that the supermarket employees had his card information because they would take it behind the glass where the cash register is located and swipe the card. The client would then provide the PIN number to the clerk to complete the transaction.

3. Two of the DHS clients interviewed admitted that they were exchanging their EBT cards for cash. According to information regarding the investigation, these two clients waived their right to an Administrative Disqualification Hearing and accepted the 12-month disqualification period. The third client was not sanctioned with an IPV because it was determined that he did not receive money in exchange for food stamps, and instead had the option to obtain food on credit and pay with his EBT card at a later time. Information provided by the Agency regarding the fourth client does not indicate she was sanctioned, but was warned about the repercussions of trafficking benefits.
4. In addition to the four clients who were interviewed, seven other DHS clients, including the Respondent, had their EBT cards used by the supermarket workers to place Internet orders. Attempts to contact them were made, but failed. According to the Agency, the Respondent agreed to an interview, but then did not show up to the scheduled meeting. It is unclear when this meeting was supposed to take place.
5. Auditor Lackie testified that the Respondent did not designate an authorized representative to use his EBT card.
6. The Respondent received a BDN dated January 9, 2021, which authorized SNAP benefits effective January 1, 2021, and included SNAP Penalty Warnings, stating in part that a household member who intentionally breaks a SNAP rule will be barred from SNAP for one year to permanently, and provides the definition of trafficking on page 8, followed by the statement **“DO NOT trade or sell (or attempt to trade or sell) EBT cards or use someone else’s EBT card for your household”** – in bold text.

7. DHS received a DHS-2 from the Respondent on May 25, 2021. The Respondent signed the DHS-2 knowing the SNAP Penalty Warnings and the penalty of perjury certifying that his answers were correct and complete on the application.
8. EBT Edge shows that three balance inquiries on the Respondent's EBT card were made from a terminal at the supermarket on June 2, 2021.
9. EBT Edge shows the Respondent's EBT card was used at 12:58 p.m. for a \$9.31 cash purchase at the supermarket, after a \$10.00 cash purchase failed for insufficient funds.
10. EBT Edge shows the Respondent's card was again used at 2:06 p.m. for a \$467.26 Internet food purchase at Walmart, with the delivery directly to the supermarket, but the transaction was declined for insufficient funds. The card was used again at 2:07 p.m. for a successful \$466.18 Internet purchase from Walmart, again with delivery directly to the supermarket. There was no real clear evidence presented to explain why some of these transactions were successful and others were not.
11. Information from Walmart shows that the supermarket worker, who was one of three criminally charged as a result of the investigation, made the Internet order using the Respondent's EBT card -- the worker's name was listed on the order information, along with her email, which was previously provided to DHS. The billing and shipping addresses were listed as 1059 Broad St., Providence, the location of the supermarket. The supermarket worker does not appear to have implicated the Respondent or provided any information that the Respondent willingly participated in her scheme.
12. A SNAP packet dated May 17, 2025, was mailed to the Respondent at [REDACTED]. The SNAP packet states the Respondent is being charged with committing an IPV due to trafficking on June 2, 2021, and includes the alleged fraudulent activity, time frame it occurred, and proposed penalty. The SNAP packet also includes the Waiver of Right to an Administrative Disqualification Hearing and the Waiver Agreement. A phone number is provided for the Respondent to dispute and/or discuss the charge. The

Respondent was told to respond by May 27, 2025, or the case would be referred to the Appeals Office for a SNAP Administrative Disqualification Hearing.

13. The Respondent did not respond to the SNAP packet. On June 9, 2025, an Administrative Disqualification Hearing was requested by the Agency.
14. An Advance Notice of Administrative Disqualification Hearing dated June 11, 2025, was sent by first class mail to the Respondent's address of record, [REDACTED]. The notice stated that the hearing was scheduled on July 21, 2025, at 9:00 a.m. The notice again states the violation period, reason, disqualification period, Waiver of Right to Administrative Disqualification Hearing and Waiver Agreement. In accordance with 7 C.F.R. §273.16(e)(3) and 218-RICR-20-00-1.23(K)(6), EOHHS provided at least 30 days advance notice in writing of the scheduling of the disqualification hearing.
15. The Respondent has no prior SNAP violations, according to an eDRS search conducted to determine the Respondent's SNAP disqualification period. Because this would be the Respondent's first violation, the Agency is pursuing a 12-month disqualification from SNAP pursuant to 218-RICR-20-00-1.9(A)(3)(c)(1).

VIII. DISCUSSION

The Agency maintains that the Respondent allowed the supermarket employee to use his EBT card to make a cash purchase at the supermarket and an online purchase at Walmart, with delivery to the supermarket. The purchases totaled \$475.49. The Respondent did not attend a scheduled meeting with the Agency to discuss the allegations, nor did he attend the Administrative Disqualification Hearing to explain how his EBT card came to be used by the supermarket employee.

The Agency provided testimony and evidence to show that the supermarket employees regularly used EBT cards of DHS clients to buy items online for their store and in exchange would give the SNAP beneficiaries cash, food from the store, or store credit. Some of those clients admitted they received cash in exchange for their EBT card, while others denied receiving anything other than approved items.

The Agency's argument, while plausible, is not clear and convincing. Of the four DHS clients interviewed whose EBT cards were used to make online purchases from Internet retailers for the supermarket, the actions of only two were clear enough to warrant IPV's as they both received cash in exchange for their cards. They both agreed to waive their right to an Administrative Disqualification Hearing and accepted the 12-month SNAP disqualification period. The other two DHS clients interviewed in connection with the supermarket's scheme were not sanctioned. Given that not all of the four DHS clients who were interviewed were penalized, it is not clear and convincing that the Respondent was receiving cash in exchange for his benefits, nor was that ever specifically stated. Furthermore, based on the history of store employees using customer EBT cards to buy items for the supermarket, the Agency surmised that the Respondent provided his EBT card and PIN number to the employee to make the cash purchase at the supermarket and the Walmart Internet purchase. But it is equally plausible that the supermarket employees kept the Respondent's EBT card and PIN information after he made a legitimate purchase, since one of the DHS clients said the supermarket workers would swipe his card at the cash register, and he would give them his PIN number.

The Agency maintains that the Respondent knew the SNAP Penalty Warnings, as he was warned in both the BDN he received in January 2021 and in the DHS-2 that he filled out in May 2021 not to trade or sell EBT cards. But the Agency's argument lacks evidence and specific information to show how the supermarket came to be in possession of the Respondent's EBT card and PIN number and what he received, if anything, in return. The Agency offered no witness statements or other evidence to support their claim that the Respondent traded or sold his EBT card.

Based on the above, the Agency failed to provide clear and convincing evidence that the Respondent knowingly trafficked his benefits in accordance with the definition of trafficking, which, per 7 C.F.R. § 271.2, is the buying, selling, stealing, or attempting to buy, sell, steal, or otherwise affect an exchange of SNAP benefits issued and accessed via EBT cards, card numbers, and personal identification numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food,

either directly, indirectly, in complicity or collusion with others, or acting alone.

IX. CONCLUSION OF LAW

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

1. The evidence provided by the Agency was not clear, convincing or direct regarding the Respondent's actions. It was clear the Respondent's EBT card was used to benefit the supermarket, but how they came to be in possession of the card, and what the Respondent received in return, was unclear.
2. The Agency did not meet its burden of proof. There is insufficient evidence to find that the Respondent intentionally violated SNAP regulations and committed an IPV per 7 C.F.R. 273.16(c).

X. DECISION

Based on the foregoing findings of fact and conclusions of law, evidence, and testimony, it is found that a final order be entered that the Agency's request for an IPV against the Respondent for 12 months is denied.

AGENCY'S INTENTIONAL PROGRAM VIOLATION CHARGE IS DENIED

/s/ 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 R.I. General Laws § 43-35-15, a final order may be appealed to the Superior Court Sitting in and for the County of Providence within 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 Brittny Badway, Kirsten Cornford, Timothy Lackie, Kimberly Rauch, Kimberly Seebeck, Jenna Simeone, Denise Tatro, Iwona Ramian, Esq., and the DHS Policy Office on this 8th day of August, 2015.

Thomas M. Kendall