



Rhode Island Executive Office of Health and Human Services  
Appeals Office, 3 West Road, Virk's Building, Cranston, RI 02920  
phone: 401.462.2132 fax: 401.462.0458

April 19, 2019

Date of Hearing: March 11, 2019



Docket # 19-187  
CSID # [REDACTED]  
DOB: [REDACTED] 1958

### **ADMINISTRATIVE DISQUALIFICATION HEARING DECISION**

The Administrative Disqualification Hearing has been decided in the Agency's favor. During the course of the proceeding, the following issue(s) and Agency's Rules and Regulations reference(s) were the matters before the hearing.

#### **CODE OF FEDERAL REGULATIONS SECTION 7 CFR 273.16 SUBPART F – Disqualification and Claims (Pertinent Excerpts)**

#### **THE DEPARTMENT OF HUMAN SERVICES (DHS) RULES AND REGULATIONS SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) 218-RICR-20-00-1 SECTION 1.9 Intentional Program Violations Section 1.21 Fair Hearings (Pertinent Excerpts)**

The facts of your case, the Agency Rules and Regulations, and the complete administrative decision made in this matter follow. Your rights to judicial review of this decision are found on the last page of this decision.

Copies of this decision have been sent to the following: You (the respondent) and Agency representatives Melissa Carrasco, Brianna Ruggiero, Kimberly Seebeck, KC Brody and Karen Vincent.



Present at the SNAP Disqualification Hearing convened on the above cited date was Melissa Carrasco, Internal Auditor-Fraud Unit and Brianna Ruggiero, Senior Internal Auditor-Fraud Unit.

**ISSUE:**

Did you, the Respondent, commit a SNAP Intentional Program Violation by making a false statement, or by misrepresenting, concealing or withholding facts?

**APPEAL RIGHTS**

Please see attached **NOTICE OF APPELLATE RIGHTS** at the end of this decision.

**POLICIES: The Code of Federal Regulations Subpart F-Disqualification and Claims**

**Section 7 CFR 273.16 (c) Definition of Intentional Program Violation states:**

Intentional Program Violations shall consist of having intentionally:

1. Made a false or misleading statement, or misrepresented, concealed or withheld facts; or
2. 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.

**Section 7 CFR 273.16 (e) (6) states:**

The State agency shall conduct administrative disqualification hearings for individuals accused of intentional program violations in accordance with the requirements outlined in this section.

Criteria for determining intentional program violation: The hearing authority shall base the determination of intentional program violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, intentional program violation as defined in paragraph (c).



**DHS Rules and Regulations: SNAP**  
**Section 1.9: Intentional Program Violations**

- A. The Fraud Unit is responsible for investigating any cases of alleged intentional program violation and ensuring that appropriate cases are acted upon, either through administrative disqualification hearings or referral to a court of appropriate jurisdiction, in accordance with the procedures outlined in this section.
1. Administrative disqualification procedures or referral for prosecution action must be initiated whenever there is sufficient documentary evidence to substantiate that an individual as intentionally committed one or more acts of intentional program violation as defined in 1.9 (A)(3) of the Part.
  3. Disqualification penalties shall be imposed as follows:
    - d. For a period of one (1) year for the first violation.
- B. The hearing authority shall base the determination of intentional program violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, an intentional program violation as defined in 1.9 (C) of this Part.
- C. Intentional Program violations shall consist of having intentionally as defined in Section 7 CFR 273.16 (c):
1. Made a false statement, or misrepresented, concealed facts or withheld facts; or
  2. Committed any act that constitutes a violation of Food Stamp Act, the Food Stamp Program Regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system (access device).

On December 20, 2018 the SNAP packet consisting of an Important SNAP Notice, Waiver of Right to Administrative Disqualification Hearing and Waiver Agreement was mailed. The SNAP packet was sent to the respondents address on record. After no response from the respondent an Administrative Disqualification Hearing was requested.

On February 7, 2019 an Advance Notice of Administrative Disqualification Hearing was mailed to the respondent for a scheduled hearing on March 11, 2019. In accordance with Code of Federal Regulations 7 CFR 273.16 (e)(3) and Section 1.21 K (7) Administrative



Disqualification Hearings of the SNAP Policy Manual, the Agency provided at least thirty (30) days advance notice, in writing, of the scheduling of this disqualification hearing.

On March 11, 2019 the Administrative Disqualification Hearing was convened to examine the charge that the Respondent had committed an Intentional Program Violation of the SNAP regulation. In accordance with 7 CFR 273.16 (e)(4) Scheduling of hearing and 1.21 K (14), if household fails to appear at the hearing without good cause, it shall be conducted without them. The Respondent was not present at the hearing.

The Administrative Disqualification Hearing Officer is required to carefully consider the evidence and determine if an Intentional Program Violation had occurred, in accordance with the standard of 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 Hearing Officer can accept as highly probable.

## **DISCUSSION OF THE EVIDENCE**

The record of hearing consists of the documents and testimony submitted into evidence at the hearing.

The Agency representative maintained that the Respondent provided fraudulent rent receipts to the State of Rhode Island, Department of Human Services (DHS) from 2015 to present. Although it did not create an overpayment of SNAP benefits, the respondent chose to defraud the SNAP program by reporting his rent expense greater than it was.

### **The Agency representative testified and submitted into evidence:**

- The investigation by Melissa Carrasco, Internal Auditor Fraud Unit commenced after receiving a fraud referral from the Providence DHS Office on June 28, 2018, claiming the respondent was married and living with his wife and not reporting her. The referral also claimed fraudulent rent receipts were provided to DHS.
- The RI Judiciary portal indicates that the respondent and his wife filed for divorce on October 20, 2003. The final judgment entered on April 22, 2004. (Agency Exhibit #1)
- The State's eligibility system, RI Bridges, shows the respondents address as [REDACTED]. This address is the same as his ex-wife. (Agency Exhibit #2)



- On July 3, 2018, a telephone call was placed by Ms. Carrasco to [REDACTED], Office Manager of the property at [REDACTED] to verify the rent expense. [REDACTED] advised that the rent is \$475.00, and they do not provide rent receipts. The rent is paid by the ex-wife with personal checks. A request for documents was made and the documents were received on December 12, 2018. The documents included a letter from [REDACTED] and a copy of a lease agreement dated October 2011. The letter explained that the ex-wife moved into the apartment June 2006 and is the only person listed on the lease but there are indications that the respondent, her son and her mother all live or have lived in the apartment. (Agency Exhibit #3) The lease agreement with the ex-wife's name indicates the rent as \$475.00. (Agency Exhibit #4)
- Ms. Townsend provided copies of the checks used to make the rent payments. These checks are dated July 2016 through November 2018 in the amount of \$475.00 each. The copies show that these are personal checks from the ex-wife and signed by the ex-wife. (Agency Exhibit #5)
- Ms. Townsend provided a rent ledger from June 2016 to December 2018 which shows the rent payments made each month. (Agency Exhibit #6)
- The respondent completed a SNAP application on March 16, 2015. On page 1, he listed his address as [REDACTED]. On page 21, question #31 asks, "Do you, your spouse, or anyone in the household, or anyone outside the household, pay rent, or a share of the rent, for the apartment, house, mobile home, or shelter where you live?" The respondent checked "Yes", lists himself and indicates rent is \$750.00 per month. The final page of the application explains the SNAP "Penalties for Perjury" that states;

"I certify under penalty of perjury that my answers are correct, including information about citizenship and alien status, and complete to the best of my knowledge and belief. I know that under the state of Rhode Island General Laws, Section 40-6-15, a maximum fine of \$1,000.00, or imprisonment of up to five (5) years, or both, may be imposed for a person who obtains or attempts to obtain, or aids or abets any person to obtain, public assistance to which s/he is not entitled, or who willfully fails to report income, resources or personal circumstances or increases therein which exceed the amount previously reported."

"I CERTIFY, under penalty of perjury, that all of the information contained in this application is true."



The respondent signed and dated the application on March 12, 2015. (Agency Exhibit #7)

- On March 16, 2015, DHS received a March unsigned rent receipt from the respondent in the amount of \$700.00 dated March 3, 2015 for [REDACTED] (Agency Exhibit #8)
- On June 3, 2015, DHS received a June rent receipt signed by [REDACTED] from the respondent in the amount of \$650.00 dated June 2, 2015 for [REDACTED]. On May 2, 2016 DHS received a May rent receipt signed by [REDACTED] from the respondent in the amount of \$675.00 dated May 1, 2016 for [REDACTED]. On May 9, 2018, DHS received a May rent receipt signed by [REDACTED] from the respondent in the amount of \$750.00 dated May 2, 2018 for [REDACTED]. (Agency Exhibit #8)
- The respondent completed a Recertification Form which was mailed to his address [REDACTED]. DHS received the form May 18, 2016. On page 3, "Home Address and Phone #" he crossed out 18 and wrote 16. He then wrote under "CHANGES to Home Address and/or Phone Number", [REDACTED]. On page 8, "Do you or anyone in your household pay all or a share of rent, mortgage payment, property taxes, insurance, or other housing expenses", he checked off "Yes" and stated the type of expense; rent of \$675.00 per month. On page 9 states the "Penalties for Perjury";

"I certify under penalty of perjury that I have read (or had read to me) and I understand the Notice of Rights, Responsibilities and Penalties and that my answers are correct, including information about citizenship and alien status, and complete to the best of my knowledge and belief. I know that under the state of Rhode Island General Laws, Section 40-6-15, a maximum fine of \$1,000.00, or imprisonment of up to five (5) years, or both, may be imposed for a person who obtains or attempts to obtain, or aids or abets any person to obtain, public assistance to which s/he is not entitled, or who willfully fails to report income, resources or personal circumstances or increases therein which exceed the amount previously reported."

The respondent signed and dated the form on May 17, 2016. (Agency Exhibit #9)

- The respondent completed a Recertification/Renewal Form which was mailed to his address [REDACTED]. DHS received the form May 9, 2018. On page 9, the respondent indicated in writing that



he pays monthly rent expense of \$750.00. On page 10, states the “Penalty Warning” and requires the respondent to sign and date, it states;

“My signature below indicates that I have read or have read to me 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 complete 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 law or both.”

The respondent signed and dated the form on May 8, 2018. (Agency Exhibit #10)

- On December 12, 2018, Ms. Carrasco, who investigated this case, logged into the Electronic Disqualified Recipient System (EDRS) to determine the disqualification period. There were no results found for the respondent therefore, it is the respondent’s first offense and the State is pursuing a one-year disqualification. (Agency Exhibit #11)
- On December 18, 2018, a SNAP packet was mailed to the respondent. The SNAP packet indicated that the respondent had ten (10) days to return the waiver if he would like to waive his right to a hearing and provided Ms. Carrasco’s phone number to ask any questions or schedule an appointment. After receiving no response from the respondent, a request for an Administrative Disqualification Hearing was requested. (Agency Exhibit #12)
- The Respondent provided false information to the State of Rhode Island, DHS when he applied for SNAP benefits by misrepresenting his rent expense. The respondent was aware of his “Rights and Responsibilities” as well as the “Penalties for Perjury” as indicated by his signatures on the DHS SNAP Application and Recertification/Renewal forms. The respondent purposely chose to defraud the State of Rhode Island, DHS by providing false information to obtain SNAP benefits when he reported his rent expense greater than it was. A SNAP packet was mailed to the respondent and the waiver was not returned. The State of Rhode Island believes that the evidence is clear, and the respondent should be found to have committed an Intentional Program Violation and be disqualified from the SNAP program for a period of one (1) year.



## FINDINGS OF FACT

After a careful review of the record of hearing, the following findings of fact have been established.

- RI Judiciary Portal print out indicating that the respondent and wife filed for divorce October 20, 2003 and the final judgement entered on April 22, 2004.
- RI Bridges Case Search/Summary states the respondent's address as [REDACTED].
- A letter from [REDACTED]-Lease Coordinator at [REDACTED] dated December 5, 2018 stated there are indications that the respondent lives or have lived in the apartment with his ex-wife, lease agreement for his ex-wife, copies of rent checks made by his ex-wife and rent ledger for his ex-wife for [REDACTED] [REDACTED] stating rent paid is \$475. This is the address being used by respondent.
- The respondent completed a SNAP application on March 16, 2015. On page 1, he listed his address as [REDACTED]. On page 21, question #31 asks, "Do you, your spouse, or anyone in the household, or anyone outside the household, pay rent, or a share of the rent, for the apartment, house, mobile home, or shelter where you live?" The respondent checked "Yes", lists himself and indicates rent is \$750.00 per month. The final page of the application states the SNAP "Penalties for Perjury";

"I certify under penalty of perjury that my answers are correct, including information about citizenship and alien status, and complete to the best of my knowledge and belief. I know that under the state of Rhode Island General Laws, Section 40-6-15, a maximum fine of \$1,000.00, or imprisonment of up to five (5) years, or both, may be imposed for a person who obtains or attempts to obtain, or aids or abets any person to obtain, public assistance to which s/he is not entitled, or who willfully fails to report income, resources or personal circumstances or increases therein which exceed the amount previously reported."

"I CERTIFY, under penalty of perjury, that all of the information contained in this application is true."

The respondent signed and dated the application on March 12, 2015.



- The respondent's unsigned rent receipt dated March 3, 2015 in the amount of \$700.00 received by DHS on March 16, 2015. The address listed was [REDACTED].
- The respondent's rent receipt dated June 3, 2015 for \$650.00 received June 3, 2015 at DHS and May 1, 2016 for \$675.00 received May 2, 2016 at DHS, both signed by [REDACTED]. The address listed was [REDACTED].
- The respondent's rent receipt dated May 2, 2018 signed by [REDACTED] in the amount of \$750.00 received by DHS on May 9, 2018. The address listed was [REDACTED].
- The respondent's SNAP Recertification Form was mailed to the address of [REDACTED]. The respondent completed and signed the notice on May 17, 2016 which was received by DHS on May 18, 2016. On page 3, "Home Address and Phone #" he crossed out 18 and wrote 16. He then wrote under "CHANGES to Home Address and/or Phone Number", Apt. 16, [REDACTED]. On page 8, "Do you or anyone in your household pay all or a share of rent, mortgage payment, property taxes, insurance, or other housing expenses", he checked off "Yes" and stated the type of expense; rent of \$675.00 per month. On page 9 states the "Penalties for Perjury";

"I certify under penalty of perjury that I have read (or had read to me) and I understand the Notice of Rights, Responsibilities and Penalties and that my answers are correct, including information about citizenship and alien status, and complete to the best of my knowledge and belief. I know that under the state of Rhode Island General Laws, Section 40-6-15, a maximum fine of \$1,000.00, or imprisonment of up to five (5) years, or both, may be imposed for a person who obtains or attempts to obtain, or aids or abets any person to obtain, public assistance to which s/he is not entitled, or who willfully fails to report income, resources or personal circumstances or increases therein which exceed the amount previously reported."

The respondent signed and dated the form on May 17, 2016.

- The respondent completed a SNAP Renewal Form which was mailed to his address [REDACTED]. DHS received the form May 9, 2018. On page 9, the respondent indicated in writing that he pays monthly rent expense of \$750.00. On page 10, states the "Penalty Warning" and requires the respondent to sign and date, it states;



“My signature below indicates that I have read or have read to me 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 complete 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 law or both.”

The respondent signed and dated the form on May 8, 2018.

- An Electronic Disqualified Recipient System (EDRS) printout dated December 12, 2018 states that there were no results found.
- On December 20, 2018 a SNAP packet was mailed to the respondent’s address [REDACTED]. On January 23, 2019 after receiving no response from the respondent, a request for an administrative disqualification hearing was sent to the Appeals Office.
- On February 7, 2019 Advance Notice of Administrative Disqualification Hearing was mailed to the respondent. The hearing to be commenced on March 11, 2019 at 10:30 am at the Providence Regional Family Center, 206 Elmwood Avenue Providence, RI 02907.
- The Administrative Disqualification Hearing was held on March 11, 2019 as scheduled and the respondent failed to appear.

## CONCLUSIONS

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

1. The Respondent was aware of his Rights and Responsibilities upon affixing his signature under the “Penalties for Perjury” and “I CERTIFY, under penalty of perjury, that all of the information contained in this application is true.
2. The Respondent provided fraudulent rent receipts to DHS in the amounts of \$700.00, \$650.00, \$675.00 and \$750.00.
3. The Respondent was aware of his Rights and Responsibilities upon affixing his signature under the “Penalties for Perjury” statement on the SNAP Recertification Form.



4. The Respondent was aware of his Rights and Responsibilities upon affixing his signature under the "Penalty Warning" statement on the SNAP Renewal Form.
5. There is clear and convincing evidence that the Respondent did intentionally provide false statements and misrepresented his rent expense.

The Agency representative testified that the Respondent provided fraudulent rent receipts to DHS. The respondent completed a SNAP Application and two (2) SNAP Recertification/Renewals, all stating his rent was greater than it was. The Respondent understood his Rights and Responsibilities when signing the documents knowing the penalties for perjury.

The Agency stated the evidence is clear, and the Respondent has committed an Intentional Program Violation and be disqualified from SNAP for a period of one (1) year.

Consequently, you, as head of household, will not be able to participate in SNAP for twelve (12) months per 7-CFR-273.16 (b)(1); and 1.9 (A)(3)(d).

Individuals found to have committed an Intentional Program Violation through an administrative disqualification hearing shall be ineligible to participate in the program for a period of twelve months as this is the first intentional program violation.

Be advised, this is your first Intentional Program Violation; a second would result in a twenty-four-month disqualification and a third would result in a permanent sanction from SNAP.

*Louanne Marcello*

Louanne Marcello  
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, via regular mail, postage prepaid, a true copy of the foregoing to: [REDACTED]; copies were sent via email to DOA, Office of Internal Audits-Fraud Unit Melissa Carrasco, Brianna Ruggiero, Kim Seebeck, DOR Collections Unit-KC Brody and Karen Vincent, on this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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