



Rhode Island Executive Office of Health and Human Services
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April 26, 2019

Date of Hearing: April 8, 2019



Docket # 19-452
CSID # [REDACTED]
DOB: [REDACTED] 1998

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 January 8, 2019 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 March 8, 2019 an Advance Notice of Administrative Disqualification Hearing was mailed to the respondent for a scheduled hearing on April 8, 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 April 8, 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 false information to the State of Rhode Island, Department of Human Services (DHS) by misrepresenting her household composition, income and residency status from April 1, 2017 through July 31, 2018, thereby receiving SNAP benefits in the amount of \$1,854.00 that she was not entitled to.

The Agency representative testified and submitted into evidence:

- The investigation by Melissa Carrasco, Internal Auditor Fraud Unit commenced upon receipt of an August 31, 2018 Fraud referral emailed from DHS that states;



"This client is 19 and was living with her mother, tricked and Eligibility Technician (ET) and received benefits for the past year. When she came in for her recert today and was questioned about the living situation she admitted her mother's address is the same as hers. The story she uses is "I live with my sister". The sister then says that she lives with her mother because the older sister is over 22 and not a mandatory member. This action creates a buffer between the daughter and mother if the ET doesn't catch it. Additionally, the client reported she hasn't worked at all the past year. When I pulled her work number history it showed that she had gotten a job in the [REDACTED] in [REDACTED]. When presented with this evidence the client changed her story admitting she had moved to [REDACTED] to the address matching the work number printout. Client reports back in RI at this time. Attached is the work number printout and below is the relevant case and client data.

This information was also case noted by the ET in the state's eligibility system, RIBridges. (Agency Exhibit #1)

- As referenced by the ET, a review of the Work Number for the respondent indicates she began working at [REDACTED] on March 6, 2018. The address provided to the employer was [REDACTED]. (Agency Exhibit #2)
- The State Wage Information Collection Agency (SWICA) data shows the respondent was also employed by [REDACTED] in the 4th quarter of 2017. This income was not reported to DHS. (Agency Exhibit #3)
- A search in the Work Number for the respondent's mother shows her most recent employer shows her address as [REDACTED]. (Agency Exhibit #4)
- A review of the Cranston Tax Assessor shows the lot at [REDACTED] is a residential one occupancy dwelling. (Agency Exhibit #5)
- A SNAP application was completed by the Respondent and scanned in by DHS on March 31, 2017. On page 2, under the section "Household Composition" it asks to list the members of your household below. The Respondent lists herself, her sister, and her nephew. Question 12 asks; "Is there anyone who lives with you who purchases and prepares food separately?" She marked "Yes", the question continues, "If yes, list the people who purchase and prepare food separately." She lists her sister. On page 32 of the SNAP application explains the respondent's



“Rights and Responsibilities” and requires the respondent to sign and date to certify understanding, it states;

“I understand the questions on this application and the penalty for hiding or giving false information or breaking any of the rules listed in this penalty warning. I certify under penalty of perjury that all 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, 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 attest to the identity of minor children identified herein and that all of the information contained in this application is true. I understand that I am breaking the law if I give wrong information and can be punished under federal law, state law or both.”

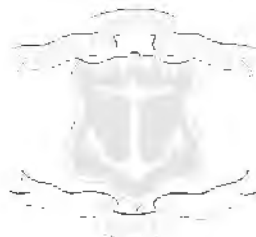
The Respondent placed her signature in the box and dated it March 30, 2017.
(Agency Exhibit # 6)

- The Respondent completed a six-month interim report which was mailed to her listed address, [REDACTED]. DHS received the interim February 12, 2018. On page 2, Question 3; “Current Household Members” lists the respondent in the box and “Are these people still living in your home?” she checked off “Yes”. On page 6, the “Penalties for Perjury” states;

“Under penalty of perjury, I attest that all of my answers on this form are correct and complete to the best of my knowledge. 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 interim report on February 12, 2018.
(Agency Exhibit #7)

- The Department of Human Services, Code of Regulations, Title 218, Chapter 20, Subchapter 00 (218-RICR-20-00-1), section 1.2.2 Special Household Definition;
 - A. “Certain individuals living together must be considered as customarily purchasing food and preparing meals together, even if they do not do so.”



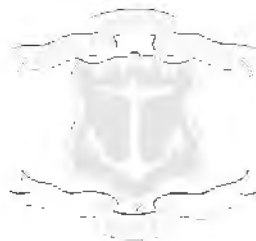
1. "Separate household status may NOT be granted to the following:
 - b. "Children under twenty-two (22) and living with their parents, even if married and living with a spouse, a child, or both."
(Agency Exhibit #8)
- The Code of Federal Regulations, Title 7 part 273.1 "Household Concept" further explains the requirement for household composition.

b. Special household requirements

1. Required household combinations. "The following individuals who live with others must be considered as customarily purchasing food and preparing meals with the others, even if they do not do so, and thus must be included in the same household, unless otherwise specified."
 - (ii) A person under 22 years of age who is living with his or her natural or adoptive parent(s) or step-parent(s).

Therefore, the Respondent, a minor under twenty-two (22), living with her mother would have had to have been included in her mother's SNAP household.
(Agency Exhibit #9)

- The Respondent's eligibility for SNAP benefits were determined using a household of one (1) and no income. She was residing with her mother in the same home. Neither her mother or her income was reported. On March 6, 2018 the Respondent began working at a [REDACTED] establishment where she provided the employer a [REDACTED] address, so she was not entitled to any benefits while living out of state. The overpayment was manually calculated to reflect these changes. The Respondent collected SNAP benefits to which she was ineligible from April 1, 2017 through June 1, 2018. These benefits totaled \$1,854.00.
(Agency Exhibit #10)
- On December 19, 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, this is her first offense and the State is pursuing a one-year disqualification. (Agency Exhibit #11)



- A SNAP packet was mailed to the respondent on January 8, 2019. The SNAP packet indicated that the respondent had ten (10) days to return the waiver she would like to waive her right to a hearing. It also provided Ms. Carrasco's phone number for any questions or to schedule an appointment. On January 11, 2019, Ms. Carrasco received a phone call from the respondent. She stated that her mother does not live at [REDACTED]. She stated her mother lives at [REDACTED]. Ms. Carrasco advised the respondent that documentation to prove mother's address would be needed, such as a lease agreement. She also admitted she was living in [REDACTED] for a few months but not during the timeframe included in the SNAP packet. Ms. Carrasco asked the respondent if she would like an appointment to bring in the documents or if she preferred to mail or email the documents. The Respondent stated she would email the information. Ms. Carrasco provided her email address as listed on the first page of the SNAP packet and advised her if she had any questions she can call. On January 30, 2019, after not receiving an email from the respondent, Ms. Carrasco placed a phone call to her at the phone number provided in RIBridges, [REDACTED] and the number was no longer in service. After no email received from the respondent and the waiver not being returned, a request for an Administrative Disqualification Hearing was submitted. (Agency Exhibit #12)
- The Respondent provided false information to the State of Rhode Island, Department of Human Services when she applied for SNAP benefits and misrepresented her household composition and residency status. The Respondent was aware of her "Rights and Responsibilities" and "Penalties for Perjury" as indicated by her signature on the DHS SNAP application and Six-Month Interim report. The Respondent purposely chose to defraud the State of RI/DHS and provided false information to obtain SNAP benefits when she did not report living with her mother or living out of state. A SNAP packet was mailed to the respondent and a waiver was never returned. The State of Rhode Island believes that the evidence is clear that 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. The Respondent will be required to repay \$1,854.00 of SNAP benefits she received but was not entitled to.

FINDINGS OF FACT

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



- On August 31, 2018, a Department of Human Services (DHS), Eligibility Technician (ET) emailed a Fraud referral to the Fraud Unit.
- The Work Number printout dated May 18, 2018 stating the respondent started employment at [REDACTED] on March 6, 2018 and lives at [REDACTED].
- A State Wage Information Collection Agency (SWICA) printout for the respondent stating unreported income from [REDACTED] in the 4th quarter of 2017.
- The Work Number printout dated September 21, 2018 for the respondent's mother stating her address as [REDACTED].
- The Cranston Tax Assessor's printout for the location of [REDACTED] stating it's a one occupancy residential property.
- The SNAP Application was completed by the Respondent on March 30, 2017 and she signed under the explanation of her "Rights and Responsibilities" and "SNAP Penalty Warnings" on pages 28 through 32 which in part states;

"You have the responsibility to report accurate information about your income, resources, and living arrangements on this application."

"You have the responsibility within 10 (ten) days to report any changes in you income, resources, family composition, or any other changes that affect your household."

"I understand that:

Any member of my household who intentionally breaks a SNAP rule can be barred from the SNAP for:

- For a period of one (1) year for the first violation
- For a period of two (2) years after a second violation
- Permanently for the third occasion of any intentional program violation."

"I understand the questions on this application and the penalty for hiding or giving false information or breaking any of the rules listed in this penalty warning. I certify under penalty of perjury that all 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, 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 attest to the identity of minor children identified herein and that all of the information contained in this application is true. I understand that I am breaking the law if I give wrong information and can be punished under federal law, state law or both.”

- The SNAP Six-Month Interim Report was completed by the Respondent on February 12, 2018 and she signed under the “Penalties for Perjury”;

“Under penalty of perjury, I attest that all of my answers on this form are correct and complete to the best of my knowledge. 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 DHS SNAP Regulation 218-RICR-20-00-1, Section 1.2.2 Special Household Definition and the Code of Federal Regulations 7CFR 273.1 “Household Concept” were cited in this case.
- SNAP Calculation of Overpayment from April 1, 2017 through February 1, 2018 in the amount of \$894.00 for a household size of two and income while living with her mother and March 1, 2018 through July 1, 2018 in the amount of \$960.00 when she resided in [REDACTED] totaling \$1,854.00.
- An EDRS printout dated December 19, 2018 stating no previous disqualifications.
- A SNAP packet was mailed to the respondent on January 8, 2019. On January 11, 2019, Ms. Carrasco received a phone call from the respondent. The Respondent agreed to email proof of her mother’s address and time she resided in [REDACTED] to Ms. Carrasco. On January 30, 2019, after not receiving an email from the respondent, Ms. Carrasco placed a phone call to her at the phone number provided in RIBridges, [REDACTED] 4 and the number was not in service. On February 8, 2019 after receiving no email response or signed waiver form from the respondent, a request for an administrative disqualification hearing was sent to the Appeals Office.
- On March 8, 2019 an Advance Notice of Administrative Disqualification Hearing was mailed to the respondent. The hearing to be commenced on April 8, 2019 at 9:45 am at the Virks Building, 3 West Road 1st floor Cranston, RI 02920.



- The Administrative Disqualification Hearing was held on April 8, 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 completed and signed a SNAP application on March 30, 2017 that lists herself (a minor), her sister and her nephew living in the household. She was the only one requesting SNAP benefits.
2. The Respondent provided false information to DHS by not reporting living with her mother at [REDACTED] upon applying for SNAP benefits.
3. The Respondent was aware of her “Rights and Responsibilities” and “SNAP Penalty Warnings” upon affixing her signature on the SNAP application.
4. The Respondent was aware of her Rights and Responsibilities upon affixing her signature under the “Penalties for Perjury” statement on the SNAP Six-Month Interim Report.
5. The Respondent failed to report income in the 4th quarter of 2017.
6. The Respondent did not report that she moved to [REDACTED].
7. There is clear and convincing evidence that the Respondent did intentionally provide false statements and misrepresented her household composition, income and residency to obtain and continue to receive SNAP benefits she was not entitled to.

The Agency representative testified that the Respondent provided false information to DHS when she applied for SNAP benefits by misrepresenting her household composition. The Respondent continued to receive SNAP benefits and failed to report income and residency changes. The Respondent was aware of her “Rights and Responsibilities” and “Penalties for Perjury” by signing both the SNAP application and Six-Month Interim Report.



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 and be required to repay \$1,854.00 of SNAP benefits she was not entitled to.

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

Individuals found to have committed and 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.

Also, repayment of SNAP benefits in the amount of \$1,854.00 will be required per SNAP Regulations 1.17 Benefit Overissuances and Claims.

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.

