



Rhode Island Executive Office of Health and Human Services
Appeals Office, 3 West Road, Virk's Building, 1st Floor, Cranston, RI 02920

July 16, 2019

Date of Hearing: 06- 24- 2019

Docket # 19-1719

DOB: [REDACTED] 1988

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 rules and regulations reference(s) were the matters before the hearing.

THE DHS RULES AND REGULATIONS: FOOD STAMPS

SECTION 1.9 Intentional Program

CODE OF FEDERAL REGULATIONS Section 7 CFR 273.16(e) 6

SUBPART F-Disqualification and Claims

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 Kimberly Seebeck, Brianna Ruggiero, and the Corrective Action Unit.

Present at the Food Stamp Disqualification Hearing convened on the above cited date was, Brittny Badway and Brianna Ruggiero (RI Department of Administration Senior Internal Audit Investigator).

ISSUE:

Did you, the Respondent, commit an Intentional Food Stamp 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(e) 6 states:**

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).

**The Department of Human Services Rules and Regulations: Food Stamps, Section 1.9:
INTENTIONAL PROGRAM VIOLATIONS
Section 1.17 F. IPV Claims Criteria for Determining an IPV states in part:**

The hearing authority must 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 below:

- Made a false statement, or misrepresented, concealed facts or withheld facts;
or
- Committed any act that constitutes a violation of Food Stamp act, the Food Stamp program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt, or possession of Food Stamp coupons or ATP cards.

An Administrative Disqualification Hearing was convened on June 26, 2019 to examine the charge that the Respondent had committed an Intentional Program Violation of a Food Stamp Program regulation.

In accordance with Section 1.21 K Administrative Disqualification Hearings (ADH) of the Food Stamp Policy manual, the Agency provided at least thirty (30) days advance notice, in writing, of the scheduling of this hearing. This notice was sent by first class mail to the Respondent's mailing address of record. 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 assertions 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 EVIDENCE

This investigation commenced with an anonymous call to the Fraud Unit that the client received SNAP benefits for his son, [REDACTED], date of birth [REDACTED] 14, who he did not have custody of.

The Agency representative testified and submitted into evidence:

- On or about December 28, 2015, DHS received [REDACTED] recertification for SNAP benefits. Page 3 of the form asks; who lives in your home? The respondent and his son are listed and checked as requesting SNAP. Page 9 of the form lists the penalties for perjury. It states; *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, 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.* [REDACTED] name is signed below the warning. The form was date stamped by DHS on December 28, 2015. (Exhibit #1)
- A Family Court Order from case [REDACTED], in the matter of [REDACTED], dated [REDACTED], 2015, awards custody and placement of minor

child, namely [REDACTED], date of birth [REDACTED] 14 to [REDACTED]. (Exhibit 2)

- The investigator pulled up a follow-up court order from the Family Court, to Case [REDACTED], dated [REDACTED] 2015, in the matter of [REDACTED] [REDACTED], to ensure that there was no change in the custody of the child. The order discusses child support to be paid by the Respondent, and states that; all prior orders not inconsistent with this Order shall remain in full force and effect. (exhibit 3)
- The Respondent's eligibility was recalculated, using a household of one, since his son did not live with him. The Respondent collected SNAP benefits for which he was not eligible, from July 1, 2014 through January 1, 2016 in the amount of \$1141.00. (Exhibit #4)
- On March 15, 2019, Internal Audit Investigator Brianna Ruggiero logged into the Electronic Disqualified Recipient System, to verify if this would be the Respondent's first violation, to determine the disqualification period. There were no results found. This is the Respondent's first offense, so the state is pursuing a one-year disqualification. (Exhibit #5)
- On March 19, 2019, a Snap Packet was mailed to the Respondent at [REDACTED] [REDACTED]. The Snap Packet included a notice of over-issuance and informed the Respondent of the time period and the amount of the over-issuance. The notice indicated the over-issuance was for the reason of household composition. It also offered the Respondent an opportunity to contact the office to discuss the findings with the auditor. Included with the notice was the waiver of disqualification hearing. The packet indicated that the Respondent had 10 days to respond. (Exhibit #6)

- On March 22, 2019, a phone call was received from the Respondent to discuss his case. He indicated that he did not have custody of his child during this time and declined a hearing being scheduled. He informed the office that he would be mailing in his signed waiver.
- On April 15, 2019, after not receiving the signed waiver, the investigator placed a phone call to the Respondent to follow up. The Respondent indicated that he had been out of state and apologized for the delay in sending in the waiver. The Respondent advised the auditor that he would mail the waiver the next morning.
- On May 7, 2019, the auditor placed another phone call to the Respondent as the waiver was not received. The Respondent indicated that he had been incarcerated but had gotten out the previous day. The auditor checked the DOC system (WINFACTS) and verified that the Respondent was incarcerated. The Respondent also indicated that he had misplaced his Snap Packet. The Respondent was offered an appointment to go in and sign the waiver and get a new Snap Packet. The Respondent made an appointment for May 9, 2019 at 10:30 AM. The Respondent did not appear for that appointment. A call was placed to the Respondent at approximately 10:40 AM and a message was left. No call was received from the Respondent. The Auditor then submitted the request for Administrative Disqualification Hearing. (Exhibit #7)
- The Respondent provided false information to the RI DHS when he completed his recertification form for SNAP benefits and requested benefits for his son, whom he did not have custody of. The penalty warning clearly stated that he would be held liable if the information provided on the form was not correct and complete. The Respondent also showed no regard for the time of the Agency, evidenced by his no call, no show to his appointment.
- The Department believes that the evidence is clear and convincing and that the Respondent should be found to have committed an Intentional Program Violation and

should be disqualified from the SNAP program for one year and required to repay the \$1141.00 in Snap benefits to which he was not entitled.

FINDINGS OF FACT

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

1. The Respondent's signature appeared on a recertification received by the Agency dated December 28, 2015. The document indicated that the Respondent was a household of two. The Respondent's signature appeared immediately below the statement;

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, 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.

2. The Respondent did apply for benefits for a child that did not live with him.
3. The Department produced evidence that the Respondent did not have custody of his child, during the time period in question.
4. The Department did produce evidence that the Respondent was over issued benefits These benefits that totaled \$1141.00.

CONCLUSIONS:

After a careful review of the testimony and documents presented at hearing based upon CFR 273.16, this Hearing Officer concludes the following:

1. The Respondent was aware of his rights and responsibilities upon affixing his signature to the recertification.
2. The Respondent was receiving SNAP benefits for himself and his son.
3. There is evidence that the Respondent did not have his son living in his household.
4. There is clear and convincing evidence that the Respondent did intentionally apply for benefits for someone not in his household in order to obtain Food Stamp benefits to which he was not entitled.
5. There is clear and convincing evidence that a Food Stamp benefit over-issuance did occur in the months stated above.
6. There is clear and convincing evidence that the respondent committed an Intentional Program Violation.

The Agency representative testified that in signing the recertification, the Respondent acknowledged awareness of his rights and responsibilities, including his rights and responsibilities and the penalties for obtaining benefits for which they are he was not eligible. The Respondent knowingly requested SNAP benefits for someone that did not live in his home.

The Agency representative, in her summation, requested that the Respondent be sanctioned from participation in the Food Stamp Program for one year and be required to pay back the \$1141.00 as the Agency has demonstrated by clear and convincing evidence that the

Respondent gave false information; therefore, these actions constituted an Intentional Program Violation.

This Appeals Officer finds that there is clear and convincing evidence that the Respondent, [REDACTED], did provide false information to obtain benefits to which you were not entitled.

Consequently, you, as head of household, will not be eligible to participate in the Food Stamp Program for one year and to pay back \$1141.00 in SNAP benefits.

Be advised that 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 the Food Stamp Program.

Administrative Hearing Officer
Geraldyn B. Stanford

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 OHHS representatives Kimberley Seebeck and Brianna Ruggiero, Brittny Badway and the Corrective Action Unit on this _____ day of _____ 2019

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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.