

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

RI DEPARTMENT OF HUMAN SERVICES

v.

DOCKET No. 22-3803

████████████████████

**DECISION**

**I. INTRODUCTION**

A telephonic hearing on the above-entitled matter was conducted by an Administrative Disqualification Hearing Officer on September 27, 2022. The Department of Administration, Office of Internal Audit, Fraud Unit (hereinafter “Agency”), on behalf of the RI Department of Human Services (hereinafter “DHS”) initiated this matter to an Administrative Disqualification Hearing and held to examine the charge that ██████████ (hereinafter “Respondent”) had committed an Intentional Program Violation (hereinafter “IPV”) of the Supplemental Nutrition Assistance Program (hereinafter “SNAP”) regulations. The Agency argues that the Respondent provided false information, specifically failed to report ██████████ (hereinafter “spouse”) earned and unearned income. The Agency is seeking that the Respondent be charged with an IPV, be disqualified from SNAP for a period of two (2) years and be required to repay the over issuance of SNAP benefits totaling \$6,016.00, for the period of August 1, 2019, through December 31, 2020, he received but was not entitled to. For the reasons discussed in more detail below, the Administrative Disqualification Hearing has been decided partially 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 Human Services (“DHS”). 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 before this Administrative Disqualification Hearing Officer is whether the Respondent committed a SNAP IPV by intentionally making a false statement, or by misrepresenting, concealing, or withholding facts to receive SNAP benefits he was not entitled to, in accordance with Federal and Departmental Policy as set forth below.

## **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 Hearing Officer can accept as highly probable.

## **V. PARTIES AND EXHIBITS**

The Agency’s Fraud Internal Auditor, Anthony Venditelli, (hereinafter “Auditor Venditelli”) investigated the Respondent’s case, attended the telephonic hearing, and provided testimony based on the facts established in determining an IPV of the SNAP regulations. Also, in attendance the Agency’s Fraud Unit Attorney, Annie VossAltman (hereinafter “Attorney VossAltman”) who further presented the case for an IPV against the Respondent. DHS Claims, Collections and Recovery Unit (hereinafter “CCRU”) Eligibility Technician 3, Terry Blanco

(hereinafter “CCRU-ET3 Blanco”) reviewed and presented the over issuance determination completed by CCRU Eligibility Technician 1, Carol Cannal. The Agency offered the following evidence at hearing:

1. Employment verification form (hereinafter “AP-50B”) dated November 18, 2021, marked as Agency’s Exhibit 1.
2. Application for Assistance (DHS-2) (hereinafter “SNAP Application”) received at DHS July 29, 2019, marked as Agency’s Exhibit 2.
3. DHS Case Note dated July 29, 2019, marked as Agency’s Exhibit 3.
4. Benefits Decision Notice (hereinafter “BDN”) dated July 29, 2019, marked as Agency’s Exhibit 4.
5. Six-Month Interim Report (hereinafter “SNAP IR”) dated November 8, 2019, marked as Agency’s Exhibit 5.
6. DHS Case Note dated November 20, 2019, marked as Agency’s Exhibit 6.
7. BDN dated November 20, 2019, marked as Agency’s Exhibit 7.
8. RI Department of Labor and Training (DLT), Unemployment Insurance (hereinafter “UI”) application and payment history, marked as Agency’s Exhibit 8.
9. BDN dated September 5, 2020, marked as Agency’s Exhibit 9.
10. SNAP Recertification/Renewal Notice (hereinafter “SNAP Recert”) dated November 1, 2020, marked as Agency’s Exhibit 10.
11. DHS Case Note dated January 8, 2021, marked as Agency’s Exhibit 11.
12. Rhode Island Code of Regulations for SNAP, 218-RICR-20-00-1, marked as Agency’s Exhibit 12.

13. Electronic Disqualified Recipient System (hereinafter “EDRS”) verification of the Respondent’s previous SNAP disqualifications dated April 29, 2022, marked as Agency’s Exhibit 13.
14. CCRU SNAP Over Issuance Calculation Sheet, marked as Agency’s Exhibit 14.
15. An Important SNAP Notice (hereinafter “SNAP Packet”) dated May 9, 2022, marked as Agency’s Exhibit 15.

The Respondent, [REDACTED] attended the telephonic hearing and testified on his own behalf. The Respondent did not offer any evidence at hearing.

**VI. RELEVANT LAW and/or REGULATIONS**

7 C.F.R. § 273.16, entitled “Disqualification for Intentional Program Violation (IPV)” (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.” A copy of 7 C.F.R. § 273.16, in pertinent part is attached. 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, Rhode Island state counterpart, 218-RICR-20-00-1, § 1.9, entitled “Intentional Program Violations” provides that “The Fraud Unit is responsible for investigating any cases of alleged intentional program violation and ensuring the appropriate cases are acted upon, either through administrative disqualification hearings or referral to a court of appropriate jurisdiction.” A copy of 218-RICR-20-00-1, § 1.9, in pertinent part is attached. It further provides that

“Administrative disqualification procedures or referral for prosecution action must be initiated whenever there is sufficient documentary evidence to substantiate” an IPV occurred.

If there is a finding that there was an IPV, the disqualification penalty for the first violation is one (1) year. Like it’s federal counterpart, the RI regulations require “clear and convincing evidence” that the household member(s) committed or intended to commit, an IPV.

If an overpayment of SNAP benefits results from an IPV, the Agency must establish and collect the claim in accordance with 7 C.F.R. § 273.18 entitled “Claims against household” and State regulation 218-RICR-20-00-1, § 1.17 entitled “Benefit Over Issuances and Claims”.

A copy of all relevant laws and/or regulations are attached in pertinent part in the Appendix following the decision.

## **VII. FINDINGS OF FACT**

1. Auditor Venditelli testified that the Fraud Unit received a field referral from DHS on January 8, 2021, claiming the Respondent did not report his spouse’s income. As a result, Auditor Venditelli commenced an investigation of the Respondent’s SNAP case.

2. Auditor Venditelli cited SNAP Regulation 218-RICR-20-00-1 § 1.5.2 “Income”, states “Household income means all income from whatever source excluding only the items specified in § 1.13.1 of this Part.”

3. Auditor Venditelli testified he reviewed Spotfire, an employment verification database, which indicated that the Respondent’s spouse was employed at [REDACTED] [REDACTED] [REDACTED] from 2019 through 2020.

4. On November 18, 2021, an AP-50B form was mailed to [REDACTED], requesting employment and payroll verification for the Respondent’s spouse. [REDACTED]

completed the AP-50B form on November 22, 2021, confirming his spouse's employment, and provided a compensation detail report from July 12, 2019, through September 30, 2020.

5. On July 29, 2019, DHS received the Respondent's SNAP Application requesting SNAP benefits for himself, his spouse, and his daughter. Page 1 indicates the Respondent's name, address, and phone number. The Respondent signed the first page of the SNAP Application under the following statement, "Under penalty of perjury, I attest 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." Page 2 asks, "HOUSEHOLD COMPOSITION: Please list the members of your household below. SNAP Applicants: list yourself and everyone who lives in your home now, even if they do not want assistance." The Respondent listed the three (3) members of his household as himself, his spouse [REDACTED] and his child [REDACTED]. Page 7 Question 15 asks, "Do you or anyone in the household expect income from a job this month?" The Respondent checked "No". Auditor Venditelli testified the Respondent failed to indicate his spouse's income at [REDACTED].

6. On Pages 31 and 32 of the SNAP Application explains the SNAP PENALTY WARNINGS, which states in part "I understand that: Any member of my household who intentionally breaks a SNAP rule will be barred from the SNAP from one-year to permanently..." Specifically, "For a period of one (1) year for the first violation, ... ; For a period of two (2) years after the second violation,... ; Permanently for the third occasion of any intentional program violation." The Warning further states in part, "DO NOT lie or hide information to get or continue to get SNAP benefits that you household should not get. ..." The Respondent and his spouse signed and dated the SNAP Application on July 25, 2019, under the following statement, "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 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 \$1000, 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 the 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.”

7. On July 29, 2019, DHS Eligibility Technician Rich entered a case note into the Respondent’s case approving SNAP based on his and his child’s RSDI income, rent and utilities. Auditor Venditelli testified that the case note reflected the SNAP interview with DHS and the Respondent failed to report his spouse’s income at [REDACTED].

8. A BDN dated July 29, 2019, was mailed to the Respondent at [REDACTED] [REDACTED]. The notice states the SNAP benefits were approved for himself, his spouse and child from July 29, 2019, to July 31, 2019, in the amount of \$0.00 and August 1, 2019, to June 30, 2020, in the amount of \$104.00. The BDN also explains, Your SNAP Certification Period; Changes You Must Report for SNAP specifically, “You must tell us if your household’s gross monthly income (before taxes) is more than \$2,252.00. You must tell us no later than 10 days after the end of the month when your income went up. ...” Pages 4 through 9 explains the RIGHTS, RESPONSIBILITIES, and the SNAP PENALTY WARNINGS specifically, Page 7 states in part, “You have a RESPONSIBILITY to supply accurate

information about your income, resources and living arrangements on this application.” Page 8 explains the consequences for intentionally breaking a SNAP rule, that includes being barred from SNAP for one year to permanently. Page 9 states in part, “DO NOT lie or hide information to get or continue to get SNAP benefits that your household should not get.”

9. On November 18, 2019, DHS received the Respondent’s SNAP IR. Page 1 explains what is required for continuation of SNAP benefits. Page 2 indicates the Respondent confirmed his telephone number, address and current household members that included himself, spouse, and child. Page 3 Job Income asks, “Does these people still have the following job income? The chart was left blank, and the Respondent checked “No Change”. Page 4 Other types of income indicates the Respondent confirmed the pre-listed unearned income, RSDI (Retirement, Survivors, and Disability Insurance) for himself and his child. Page 6 “Did you report any changes in any section above?” The Respondent checked “No Changes Reported”. Page 7 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 and his spouse signed and dated the SNAP IR on November 15, 2019. Auditor Venditelli testified that the Respondent failed to indicate his spouse’s job income at [REDACTED].

10. On November 20, 2019, DHS Eligibility Technician Presciutti entered a case note into the Respondent’s SNAP case indicating the Respondent reported no changes, and his SNAP was approved.

11. A BDN dated November 20, 2019, was mailed to the Respondent. The notice states the SNAP benefits were increasing to \$110.00 for himself, his spouse and child effective



November 1, 2019. Pages 3 through 8 explains the RIGHTS, RESPONSIBILITIES, and SNAP PENALTY WARNINGS.

12. The Respondent's spouse filed an application with DLT requesting UI benefits on June 12, 2020. Page 1 indicates his spouse's name, social security number, address, and date of birth. Page 3 indicates his spouses most recent employer [REDACTED] where she worked from February 9, 2015, through May 3, 2020. Pages 13 through 19 indicates the Respondent's UI payment history from June 28, 2020, through June 13, 2021. The payment history indicates the Respondent's spouse received UI benefits of \$140.00 weekly.

13. A BDN dated September 5, 2020, was mailed to the Respondent. The notice states the SNAP benefits were increasing for himself, his spouse and child from October 1, 2020, to December 31, 2020, in the amount of \$121.00. Pages 3 through 8 explains the RIGHTS, RESPONSIBILITIES, and SNAP PENALTY WARNINGS.

14. On November 13, 2020, DHS received the Respondent's SNAP Recert for continuation of SNAP benefits for himself, his spouse and child. Page 3 instructs the Respondent what is required to renew his household's SNAP benefits. Page 4 and 5 indicated that he updated his address to [REDACTED], his phone number, and his spouse's last name to [REDACTED]. Page 6 and 7 asks for Income from Other Sources, "Below is the information we have about unearned income. Please attach proof of income for the last 30 days, even if there are no changes (not required for Medicaid)." This section looks at income from sources other than work including but not limited to RSDI and unemployment benefits. "Is the information below, correct?" He checked "Yes". "If no, please provide the correct information and any new income information in the empty rows provided in the chart below." The chart pre-lists RSDI income for himself and his child. Page 10 PENALTY WARNING states, "My signature below

indicates that I have read or have had read to me the Rights and Responsibilities attached to this form. Under Penalty of perjury, I attest that all of 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 and his spouse signed and dated the SNAP Recert on November 11, 2020. Auditor Venditelli testified that the Respondent failed to report his spouses unearned income, specifically UI benefits that she had been receiving since June 28, 2020.

15. On January 8, 2021, DHS Eligibility Technician Davis entered a case note into the Respondent’s SNAP case indicating a household of three (3). His address, and phone number were updated, income of RSDI for himself and his child. Per DLT interface the Respondent’s spouse receives UI income but he did not report it. SNAP was denied for over income.

16. Auditor Venditelli cited 218-RICR-20-00-1, § 1.9 (C)(1) that states in part, “Intentional Program violation shall consist of having intentionally as defined in 7 C.F.R. § 273.16(c): (1) Made a false or misleading statement, or misrepresented, concealed, or withheld facts.” Auditor Venditelli testified the Respondent received SNAP benefits he was not entitled to from August 1, 2019, through December 31, 2020, when he failed to inform DHS that his spouse was employed with [REDACTED], and she received UI income.

17. On April 29, 2022, Auditor Johnson logged into EDRS to determine the Respondent’s SNAP disqualification period. The query indicated the Respondent had a previous disqualification in 2003 in Massachusetts which was considered his first (1<sup>st</sup>) violation. Therefore, this is the Respondent’s second (2<sup>nd</sup>) violation, and the Agency is pursuing a two (2)

year disqualification from SNAP pursuant to 218-RICR-20-00-1, § 1.9 (A)(3)(c)(2) and 7 C.F.R. § 273.16(b)(1)(ii).

18. The SNAP over issuance calculation was completed by CCRU Representative Cannal and presented by CCRU-ET3 Blanco. To determine the Respondent's over issuance the household's RSDI income of \$2,077.00, his spouse's paystubs from July 12, 2019, through August 16, 2019, and appropriate credit for expenses were used. CCRU-ET3 Blanco testified that whenever a full month's income is anticipated but is received on a weekly basis, the Agency converts the income to a monthly amount by multiplying the weekly income by 4.3333. The Respondent's spouse's income was prospectively budgeted by dividing \$745.50 by four (4) which equals \$186.38 and then multiplied by 4.3333 totaling her gross monthly income of \$807.67. The gross monthly income of \$807.67 was used in the over issuance calculation from August 1, 2019, through November 30, 2019. The spouse's income was removed for December 2019, January 2020 through March 31, 2020, because his spouse stopped working.

19. CCRU-ET3 Blanco further testified in January 2020 a Cost-of-Living Adjustment (COLA) from SSA increased the Respondent's and child's RSDI income to \$2,099.00. The Respondent's spouse re-started employment at [REDACTED] and received her first paycheck January 30, 2020. The Respondent is a Simplified Reporter, required to inform DHS by March 10, 2020, if the household's gross monthly income is over 130% of the Federal Poverty Level (FPL) which was \$2,311.00. The spouse's February paystubs were calculated using prospective budgeting totaling \$1,906.65 and appropriate credit for expenses were given to determine the over issuance calculation from April 1, 2020, through September 30, 2020. The Respondent's spouse's employment ended, so the income was removed effective October 1, 2020. The Respondent's spouse started receiving UI benefits in June 2020 of \$140.00 per week.

The UI income was prospectively budgeted totaling gross monthly income of \$606.66, for September 1, 2020, forward as he was a Simplified Reporter. In addition, effective April 1, 2020, all recipients who were eligible for the minimum amount of SNAP benefits received the maximum SNAP benefit due to the Covid-19 pandemic. In this case, the Respondent received the maximum SNAP benefits for a household of three (3) of \$509.00 from April 1, 2020, through September 30, 2020, and \$535.00 from October 1, 2020, through December 31, 2020.

20. CCRU-ET3 Blanco concluded that the Respondent's adjusted monthly income was over the 130% FPL when he applied for SNAP on July 29, 2019, upon his spouse's return to work, and upon receipt of UI income. The over issuance is for the period of August 1, 2019, through December 31, 2020, totaling \$6,016.00.

21. Auditor Venditelli testified he mailed a SNAP Packet dated May 9, 2022, to the Respondent at [REDACTED]. The SNAP Packet included a Notice of Over Issuance stating the alleged fraudulent activity, amount of the over issuance, time frame it occurred, the opportunity to dispute the charge and/or sign and return the waiver by May 17, 2022. Also included in the SNAP Packet is the Waiver of Right to Administrative Disqualification Hearing that stated the penalty period and Waiver Agreement. The SNAP Packet alleged that the Respondent's household received an over issuance of SNAP benefits totaling \$6,016.00 for the period of August 1, 2019, through December 1, 2020, as a result of fraudulent activity, specifically "Unreported Earned Income and Unreported Unearned Income".

22. Auditor Venditelli testified he received a phone call from the Respondent on May 10, 2022. This call confirmed that the Respondent received the SNAP Packet and requested an Administrative Disqualification Hearing.

23. On August 11, 2022, an Advance Notice of Administrative Disqualification Hearing (“RIFS-121C”) was sent by first class mail to the Respondent’s mailing address of record, [REDACTED] for a scheduled hearing on September 27, 2022, at 9:00 AM. The Advance Notice of Administrative Disqualification Hearing states the violation period, reason, disqualification penalty and over issuance amount. Also included with the notice is the 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, § 1.22 K (6), EOHHS provided at least thirty (30) days advance notice, in writing of the scheduling of the disqualification hearing. This notice was returned undeliverable on August 25, 2022.

24. The Appeals Office contacted Auditor Venditelli on August 25, 2022, to verify the Respondent’s address. He indicated the Respondent’s address changed to [REDACTED]. The Appeals Office mailed the Advance Notice of Administrative Disqualification Hearing (“RIFS-121C”) on this same day.

25. On September 27, 2022, the Administrative Disqualification was held.

26. The Respondent testified that he thought government gave extra SNAP to the people for the pandemic and now he has to pay for it. CCRU-ET3 Blanco responded, that during the pandemic the Federal Government signed a law effective April 1, 2020, indicating anyone who was eligible for SNAP benefits would receive the maximum benefits. In this case, the Respondent received the maximum SNAP benefits for a family of three (3), but he was not entitled to them.

27. Attorney VossAltman questioned the Respondent. She asked if he filled out the SNAP application in 2019 and why on Page 7 “Job Income”, he responded no income even though his spouse was working at [REDACTED]. He testified he didn’t remember. He

thought someone else may have helped him with the form because if he doesn't understand something he gets assistance from a friend or [REDACTED]. He argued the paperwork sent to him for the hearing was an issue because he had no one to help him. He thought he requested a Spanish interpreter with DHS, but the Agency argued there is no indication of that. The Respondent's forms indicate English and RIBridges system also indicates English. He then agreed he did not call DHS or the Appeals Office for assistance or to request an interpreter. He agreed he signed the application, didn't report his spouse was working, and he is sorry. He understands the charges against him.

#### **VIII. DISCUSSION**

The Agency maintains that the Respondent intentionally provided false information to DHS when he failed to report his spouse's earned income from [REDACTED] on his SNAP Application and SNAP IR. Furthermore, the Respondent provided false information to DHS when he failed to report his spouse's unearned income, specifically UI benefits on his SNAP Recert. The Respondent signed the SNAP Application, IR and Recert knowing the penalties if he willfully gave wrong information. Based on the evidence, the Respondent did not abide by the Rhode Island Code of Regulations presented as evidence. Therefore, the Agency requests that the Respondent should be found to have committed an IPV, be disqualified from SNAP for a period of two (2) years and be required to repay the over issuance of \$6,016.00 in SNAP benefits he received but was not entitled to from August 1, 2019, through December 1, 2020.

The record consists of the evidence and testimony from the Agency, as well as the testimony from the Respondent. The evidence establishes the Respondent completed and signed a SNAP Application requesting benefits for himself, his spouse and child, received at DHS on

July 29, 2019. He signed the first page of the SNAP application warning him of the penalties for perjury. Page 7 asks about job income and the Respondent indicated there was none, although his spouse was working at [REDACTED] since July 12, 2019. Page 31 and 32, "SNAP PENALTY WARNINGS" clearly explains that any member who intentionally breaks a SNAP rule can be barred from SNAP from one year to permanently. The Respondent and his spouse signed the application under the penalty of perjury statement attesting all the answers were correct and complete to the best of their knowledge on July 25, 2022. On July 29, 2019, a SNAP interview was held with the Respondent and DHS. The Respondent only reported his and his child's RSDI income failing to report his spouse's job income again. A BDN was mailed to the Respondent approving SNAP benefits. The notice explained his SNAP Certification Period, Changes in gross monthly income more than \$2,252.00, and upcoming SNAP IR information. The BDN also explained the RIGHTS, RESPONSIBILITIES, and the SNAP PENALTY WARNINGS. The Respondent and his spouse also completed and signed the SNAP IR on November 15, 2019, reporting no changes. The Respondent again had the opportunity to report his spouse's job income at [REDACTED] but failed to do so. On November 20, 2019, a BDN was mailed to the Respondent explaining his RIGHTS, RESPONSIBILITIES, and the SNAP PENALTY WARNINGS.

The evidence further establishes the Respondent did not work at [REDACTED] [REDACTED] [REDACTED] in the month of December 2019 but returned to work on January 31, 2020. The Respondent was a Simplified Reporter, therefore required to report household gross income in excess of 130% FPL, \$2,311.00 by March 10, 2020, per 218-RICR-20-00-1 § 1.13.1(A)(2)(a). The household's income of \$4,005.65 was clearly over the income limit. The Respondent's spouse then filed an UI application with DLT on June 12, 2020. The UI application clearly indicated her employment

with [REDACTED]. The Respondent's spouse received \$140.00 per week from June 28, 2020, through June 13, 2021, but he also failed to report this income based on the Simplified Reporter regulation previously discussed. Additionally, the Respondent and his spouse completed and signed their SNAP Recert on November 11, 2020. The Respondent again had the opportunity to report his spouses UI income but failed to do so.

Based on the above, it is clear the Respondent did not report his spouse's true income upon completion of the SNAP Application, SNAP IR, SNAP Recert and at subsequent SNAP interviews. The Respondent was required to report all income per 218-RICR-20-00-1 § 1.5.2 which states in pertinent part that household income means all income from whatever source, this includes earned and unearned income. Although the Respondent testified on his own behalf, and agreed, he signed the application, knew his spouse was working and didn't report his spouse's income. Therefore, the Respondent intentionally provided false information, concealed information, and otherwise intentionally failed to report his spouse's earned and unearned income. Accordingly, there is clear and convincing evidence that the Respondent committed an IPV upon submitting his SNAP application received at DHS on July 29, 2019, and at least on three (3) other occasions, by violating SNAP Regulation 218-RICR-20-00-1, § 1.9 (C)(1) and 7 CFR § 273.16 (c)(1), that defines an IPV.

In review of the over issuance calculation, based on 7 CFR § 273.18 and 218-RICR-1.17.1 (F), if the individual is found to have committed an IPV, the agency must initiate a collection. In 7 CFR § 273.18 (c)(1)(i)(ii) provides guidance for calculating an IPV claim. The claim is calculated back to first month the IPV occurred, in this case August 1, 2019. You then determine the correct amount of SNAP for each month that the household received an over issuance and subtract the correct amount from the benefits actually received. CCRU-ET3 Blanco



testified to the over issuance calculation of \$6,016.00, for the period of August 1, 2019, through December 1, 2020. Ms. Blanco stated that the Respondent is a Simplified Reporter and the adjusted monthly income exceeded 130% of the FPL upon application, after his spouse returned to work in January 2020 and again upon receipt of UI income in June 2020. The over issuance was calculated based on the Income Budgeting regulation 218-RICR-20-00-1 § 1.6.8(C)(5)(a).

In further review of the over issuance calculation, the Respondent's over issuance for August 1, 2019, through March 31, 2020, totaled \$468.00. Due to the Covid-19 pandemic all households eligible for SNAP received the maximum SNAP allotment. In this case, the Respondent's household of three (3) received \$509.00 from April 1, 2020, through September 30, 2020, and \$535.00 from October 2020 through December 31, 2020, per 218-RICR-20-00-1 § 1.15(D)(d). The Respondent was ineligible for SNAP from April 1, 2020, through December 31, 2020, receiving \$4,659.00 of SNAP benefits he was not entitled to. The over issuance calculation sheet also indicates an over issuance for April 2020 of \$798.00 and December 2020 of \$1,135.00, both of which are over the maximum SNAP allotments for those months. CCRU-ET3 Blanco explained the additional \$289.00 for April was due to a computer glitch but did not provide evidence to substantiate the increased benefit. It is also unclear why there is an additional discrepancy of \$600.00 for December 2020. The Agency did not address, nor did they provide evidence to substantiate this increased benefit. Therefore, with respect to the IPV, the Agency has only proven an over issuance of \$5,127.00 from August 1, 2019, through December 31, 2020.

#### **IX. CONCLUSIONS OF LAW**

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

1. The Respondent, by omission, failed to report his households true earned and unearned income on the July 2019 SNAP Application, November 2019 SNAP IR, November 2020 SNAP Recert and at the subsequent SNAP interviews with DHS.

2. The Respondent was aware of his RIGHTS, RESPONSIBILITIES, SNAP PENALTY WARNINGS and the Penalties for Perjury upon affixing his signature on the SNAP Application, SNAP IR and SNAP Recert attesting that his answers on these forms were correct and complete to the best of his knowledge.

3. The Agency has demonstrated by clear and convincing evidence that the Respondent knowingly made false statements relative to his spouse's income upon submission of his SNAP Application and Interview, SNAP IR, and SNAP Recert and Interview. Additionally, the Respondent failed to report his spouse's income when it exceeded 130% of the FPL as a Simplified Reporter. Therefore, the Respondent intentionally misrepresented, concealed, or withheld facts pertinent to his SNAP case on numerous occasions.

4. The Agency has demonstrated by clear and convincing evidence that the Respondent committed an IPV of the SNAP Regulations starting in July 2019.

5. Consequently, the Respondent, as head of household, will not be able to participate in SNAP for twenty-four (24) months per Title 7 C.F.R. § 273.16 (b)(1)(ii); SNAP Regulations 218-RICR-20-00-1, § 1.9 (A)(3)(c)(2), which states in pertinent part: Individuals found to have committed an IPV through an administrative disqualification hearing shall be ineligible to participate in the program for a period of one (2) year as this is the second (2<sup>nd</sup>) IPV.

6. Per Title 7 C.F.R. § 273.18 and SNAP Regulation 218-RICR-20-00-1, § 1.17; Benefit Over Issuances and Claims, (F) IPV Claims (1) provides in part that if a household member is found to have committed an IPV by an administrative disqualification hearing

official, the agency must initiate collection action against the individual's household. Therefore, the Respondent is required to repay the adjusted over issuance for August 1, 2019, through December 31, 2020, totaling \$5,127.00, he received but was not entitled to.

**X. DECISION**

Based on the foregoing Findings of Fact and Conclusions of Law, it is found that a final order be entered that the Agency's request for an IPV against the Respondent for two (2) years and repayment of \$5,127.00 is granted.

**AGENCY'S INTENTIONAL PROGRAM VIOLATION CHARGE IS GRANTED**

*/s/ Louanne Marcello*

Louanne Marcello  
Administrative Disqualification Hearing Officer

**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 Representatives, Brittny Badway, Kimberly Seebeck, Annie VossAltman Esq., DHS Representatives Denise Tatro, Bethany Caputo, DHS.CCRU@dhs.ri.gov, and DOR representatives Karen Vincent and Edmund Murray on this 3<sup>rd</sup> day of November, 2022.

*Louanne Marcello*

## APPENDIX

### **Code of Federal Regulation: Food and Nutrition Service**

#### **7 CFR 273.16 Disqualification for intentional Program violation.**

(a) *Administrative responsibility.* (1) The State agency shall be responsible for investigating any case 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. Administrative disqualification procedures or referral for prosecution action should be initiated by the State agency in cases in which the State agency has sufficient documentary evidence to substantiate that an individual has intentionally made one or more acts of intentional Program violation as defined in paragraph (c) of this section. If the State agency does not initiate administrative disqualification procedures or refer for prosecution a case involving an overissuance caused by a suspected act of intentional Program violation, the State agency shall take action to collect the overissuance by establishing an inadvertent household error claim against the household in accordance with the procedures in §273.18. The State agency should conduct administrative disqualification hearings in cases in which the State agency believes the facts of the individual case do not warrant civil or criminal prosecution through the appropriate court system, in cases previously referred for prosecution that were declined by the appropriate legal authority, and in previously referred cases where no action was taken within a reasonable period of time and the referral was formally withdrawn by the State agency. The State agency shall not initiate an administrative disqualification hearing against an accused individual whose case is currently being referred for prosecution or subsequent to any action taken against the accused individual by the prosecutor or court of appropriate jurisdiction, if the factual issues of the case arise out of the same, or related, circumstances. The State agency may initiate administrative disqualification procedures or refer a case for prosecution regardless of the current eligibility of the individual.

(2) Each State agency shall establish a system for conducting administrative disqualifications for intentional Program violation which conforms with the procedures outlined in paragraph (e) of this section. FNS shall exempt any State agency from the requirement to establish an administrative disqualification system if the State agency has already entered into an agreement, pursuant to paragraph (g)(1) of this section, with the State's Attorney General's Office or, where necessary, with county prosecutors. FNS shall also exempt any State agency from the requirement to establish an administrative disqualification system if there is a State law that requires the referral of such cases for prosecution and if the State agency demonstrates to FNS that it is actually referring cases for prosecution and that prosecutors are following up on the State agency's referrals. FNS may require a State agency to establish an administrative disqualification system if it determines that the State agency is not promptly or actively pursuing suspected intentional Program violation claims through the courts.

(3) The State agency shall base administrative disqualifications for intentional Program violations on the determinations of hearing authorities arrived at through administrative

disqualification hearings in accordance with paragraph (e) of this section or on determinations reached by courts of appropriate jurisdiction in accordance with paragraph (g) of this section. However, any State agency has the option of allowing accused individuals either to waive their rights to administrative disqualification hearings in accordance with paragraph (f) of this section or to sign disqualification consent agreements for cases of deferred adjudication in accordance with paragraph (h) of this section. Any State agency which chooses either of these options may base administrative disqualifications for intentional Program violation on the waived right to an administrative disqualification hearing or on the signed disqualification consent agreement in cases of deferred adjudication.

(b) *Disqualification penalties.* (1) Individuals found to have committed an intentional Program violation either through an administrative disqualification hearing or by a Federal, State or local court, or who have signed either a waiver of right to an administrative disqualification hearing or a disqualification consent agreement in cases referred for prosecution, shall be ineligible to participate in the Program:

(i) For a period of twelve months for the first intentional Program violation, except as provided under paragraphs (b)(2), (b)(3), (b)(4), and (b)(5) of this section;

(ii) For a period of twenty-four months upon the second occasion of any intentional Program violation, except as provided in paragraphs (b)(2), (b)(3), (b)(4), and (b)(5) of this section; and

(iii) Permanently for the third occasion of any intentional Program violation.

(2) Individuals found by a Federal, State or local court to have used or received benefits in a transaction involving the sale of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) shall be ineligible to participate in the Program:

(i) For a period of twenty-four months upon the first occasion of such violation; and

(ii) Permanently upon the second occasion of such violation. ...

(11) State agencies shall disqualify only the individual found to have committed the intentional Program violation, or who signed the waiver of the right to an administrative disqualification hearing or disqualification consent agreement in cases referred for prosecution, and not the entire household.

(12) Even though only the individual is disqualified, the household, as defined in §273.1, is responsible for making restitution for the amount of any overpayment. All intentional Program violation claims must be established and collected in accordance with the procedures set forth in §273.18.

(13) The individual must be notified in writing once it is determined that he/she is to be disqualified. The disqualification period shall begin no later than the second month which follows the date the individual receives written notice of the disqualification. The disqualification period must continue uninterrupted until completed regardless of the eligibility of the disqualified individual's household.

(c) *Definition of intentional Program violation.* 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.

(d) *Notification to applicant households.* The State agency shall inform the household in writing of the disqualification penalties for intentional Program violation each time it applies for Program benefits. The penalties shall be in clear, prominent, and boldface lettering on the application form.

(e) *Disqualification hearings.* The State agency shall conduct administrative disqualification hearings for individuals accused of intentional Program violation in accordance with the requirements outlined in this section.

(1) *Consolidation of administrative disqualification hearing with fair hearing.* The State agency may combine a fair hearing and an administrative disqualification hearing into a single hearing if the factual issues arise out of the same, or related, circumstances and the household receives prior notice that hearings will be combined. If the disqualification hearing and fair hearing are combined, the State agency shall follow the timeframes for conducting disqualification hearings. If the hearings are combined for the purpose of settling the amount of the claim at the same time as determining whether or not intentional Program violation has occurred, the household shall lose its right to a subsequent fair hearing on the amount of the claim. However, the State agency shall, upon household request, allow the household to waive the 30-day advance notice period required by paragraph (e)(3)(i) of this section when the disqualification hearing and fair hearing are combined. ...

(3) *Advance notice of hearing.* (i) The State agency shall provide written notice to the individual suspected of committing an intentional Program violation at least 30 days in advance of the date a disqualification hearing initiated by the State agency has been scheduled. If mailed, the notice shall be sent either first class mail or certified mail-return receipt requested. The notice may also be provided by any other reliable method. If the notice is sent using first class mail and is returned as undeliverable, the hearing may still be held.

(ii) If no proof of receipt is obtained, a timely (as defined in paragraph (e)(4) of this section) showing of nonreceipt by the individual due to circumstances specified by the State agency shall be considered good cause for not appearing at the hearing. Each State agency shall establish the circumstances in which non-receipt constitutes good cause for failure to appear. Such circumstances shall be consistent throughout the State agency.

(iii) The notice shall contain at a minimum:

(A) The date, time, and place of the hearing;

(B) The charge(s) against the individual;

(C) A summary of the evidence, and how and where the evidence can be examined;

(D) A warning that the decision will be based solely on information provided by the State agency if the individual fails to appear at the hearing;

(E) A statement that the individual or representative will, upon receipt of the notice, have 10 days from the date of the scheduled hearing to present good cause for failure to appear in order to receive a new hearing;

(F) A warning that a determination of intentional Program violation will result in disqualification periods as determined by paragraph (b) of this section, and a statement of which penalty the State agency believes is applicable to the case scheduled for a hearing;

(G) A listing of the individual's rights as contained in §273.15(p);

(H) A statement that the hearing does not preclude the State or Federal Government from prosecuting the individual for the intentional Program violation in a civil or criminal court action, or from collecting any overissuance(s); and

(I) If there is an individual or organization available that provides free legal representation, the notice shall advise the affected individual of the availability of the service.

(iv) A copy of the State agency's published hearing procedures shall be attached to the 30-day advance notice or the advance notice shall inform the individual of his/her right to obtain a copy of the State agency's published hearing procedures upon request.

(v) Each State agency shall develop an advance notice form which contains the information required by this section.

(4) *Scheduling of hearing.* The time and place of the hearing shall be arranged so that the hearing is accessible to the household member suspected of intentional Program violation. If the household member or its representative cannot be located or fails to appear at a hearing initiated by the State agency without good cause, the hearing shall be conducted without the household member being represented. Even though the household member is not represented, the hearing official is required to carefully consider the evidence and determine if intentional Program violation was committed based on clear and convincing evidence. If the household member is found to have committed an intentional Program violation but a hearing official later determines that the household member or representative had good cause for not appearing, the previous decision shall no longer remain valid and the State agency shall conduct a new hearing. The hearing official who originally ruled on the case may conduct the new hearing. In instances where good cause for failure to appear is based upon a showing of nonreceipt of the hearing notice as specified in paragraph (e)(3)(ii) of this section, the household member has 30 days after the date of the written notice of the hearing decision to claim good cause for failure to appear. In all other instances, the household member has 10 days from the date of the scheduled hearing to present reasons indicating a good cause for failure to appear. A hearing official must enter the good cause decision into the record. ...

(6) *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) of this section.

(7) *Decision format.* The hearing authority's decision shall specify the reasons for the decision, identify the supporting evidence, identify the pertinent FNS regulation, and respond to reasoned arguments made by the household member or representative.

(8) *Imposition of disqualification penalties.* (i) If the hearing authority rules that the individual has committed an intentional Program violation, the household member must be disqualified in accordance with the disqualification periods and procedures in paragraph (b) of this section. The same act of intentional Program violation repeated over a period of time must not be separated so that separate penalties can be imposed.

(ii) No further administrative appeal procedure exists after an adverse State level hearing. The determination of intentional Program violation made by a disqualification hearing official cannot be reversed by a subsequent fair hearing decision. The household member, however, is entitled to seek relief in a court having appropriate jurisdiction. The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy.

(iii) Once a disqualification penalty has been imposed against a currently participating household member, the period of disqualification shall continue uninterrupted until completed regardless of the eligibility of the disqualified member's household. However, the disqualified member's household shall continue to be responsible for repayment of the overissuance which resulted from the disqualified member's intentional Program violation regardless of its eligibility for Program benefits.

(9) *Notification of hearing decision.* (i) If the hearing official finds that the household member did not commit intentional Program violation, the State agency shall provide a written notice which informs the household member of the decision.

(ii) If the hearing official finds that the household member committed intentional Program violation, the State agency shall provide written notice to the household member prior to disqualification. The notice shall inform the household member of the decision and the reason for the decision. In addition, the notice shall inform the household member of the date the disqualification will take effect. If the individual is no longer participating, the notice shall inform the individual that the period of disqualification will be deferred until such time as the individual again applies for and is determined eligible for Program benefits. The State agency shall also provide written notice to the remaining household members, if any, of either the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member are described in §273.11(c). A written demand letter for restitution, as described in §273.18(d)(3), shall also be provided. ...



## 273.18 Claims against households.

### (a) *General.*

(1) A recipient claim is an amount owed because of:

(i) Benefits that are overpaid or

(ii) Benefits that are trafficked. Trafficking is defined in 7 CFR 271.2.

(2) This claim is a Federal debt subject to this and other regulations governing Federal debts. The State agency must establish and collect any claim by following these regulations.

(3) As a State agency, you must develop a plan for establishing and collecting claims that provides orderly claims processing and results in claims collections similar to recent national rates of collection. If you do not meet these standards, you must take corrective action to correct any deficiencies in the plan.

(4) The following are responsible for paying a claim:

(i) Each person who was an adult member of the household when the overpayment or trafficking occurred;

(ii) A person connected to the household, such as an authorized representative, who actually trafficks or otherwise causes an overpayment or trafficking.

(b) *Types of claims.* There are three types of claims:

An . . .	is . . .
(1) Intentional Program violation (IPV) claim	any claim for an overpayment or trafficking resulting from an individual committing an IPV. An IPV is defined in <u>§ 273.16</u> .
(2) Inadvertent household error (IHE) claim	any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the household.
(3) Agency error (AE) claim	any claim for an overpayment caused by an action or failure to take action by the State agency.

(c) *Calculating the claim amount -*

(1) *Claims not related to trafficking.*

(i) As a State agency, you

must calculate a claim . . .

and . . .

and . . .

back to at least twelve months prior to when you become aware of the overpayment

for an IPV claim, the claim must be calculated back to the month the act of IPV first occurred

for all claims, don't include any amounts that occurred more than six years before you became aware of the overpayment.

(ii) The actual steps for calculating a claim are

you . . .

unless . . .

then . . .

(A) determine the correct amount of benefits for each month that a household received an overpayment

(B) do not apply the earned income deduction to that part of any earned income that the household failed to report in a timely manner when this act is the basis for the claim

the claim is an AE claim

apply the earned income deduction.

(C) subtract the correct amount of benefits from the benefits actually received. The answer is the amount of the overpayment

this answer is zero or negative

dispose of the claim referral.

(D) reduce the overpayment amount by any EBT benefits expunged from the household's EBT benefit account in accordance with your own procedures. The difference is the amount of the claim

you are not aware of any expunged benefits

the amount of the overpayment calculated in paragraph (c)(1)(ii)(C) of this section is the amount of the claim.

**218-RICR-20-00-1**

**TITLE 218 – DEPARTMENT OF HUMAN SERVICES**

**CHAPTER 20 – INDIVIDUAL AND FAMILY SUPPORT PROGRAMS**

**SUBCHAPTER 00 - N/A**

**PART 1 – Supplemental Nutrition Assistance Program**

**1.5.2 Income**

A. Household income means all income from whatever source excluding only the items specified in § 1.13.1 of this Part.

1. Earned Income

a. The following types of income are considered earned income: (1) Wages: All wages and salaries for services performed as an employee, including payments to individuals for providing attendant care services. ...

2. Unearned Income

a. The following types of income are considered unearned (This list is not inclusive): ...

(2) Pensions, Social Security

(AA) Include as income annuities, pensions, retirement, Veteran's or disability benefits, Worker's or Unemployment Insurance, Social Security benefits, including the SMI amount, or strike benefits. ...

**1.6.8 Financial Verification**

A. The agency representative must use documentary evidence as the primary source of verification. If other types of verification are used, the agency representative documents the case record as to why an alternate source was used. ...

C. Income Budgeting

5. Averaging Income

a. Whenever a full month's income is anticipated but is received on a weekly basis, the agency representative converts the income to a monthly amount by multiplying the weekly income by 4.3333.

**I.8 Certification Periods**

A. Definite periods of time are established which households are eligible to receive benefits. At the expiration of each certification period, eligibility for food assistance is redetermined based upon a newly completed application or recertification packet, an in-person or phone interview and such verification as is required. Under no circumstances are benefits continued beyond the end of a certification period without a redetermination of eligibility.

1. Change reporters are households consisting entirely of unemployable members in which all members are elderly or disabled as defined in § 1.13.1 of this Part, and households with members who are migrant or seasonal farmworkers. Change Reporters are assigned a twenty-four (24) month certification period.

2. All other households are considered Simplified Reporters and are assigned a twelve (12) month certification period.

### **1.9 Intentional Program Violations**

- A. The Fraud Unit is responsible for investigating any case 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 has intentionally committed one (1) or more acts of intentional program violation as defined in § 1.9(A)(3) of this Part.
    - a. If the Fraud Unit does not initiate administrative disqualification procedures or refer for prosecution a case involving an over-issuance caused by a suspected act of intentional program violation, an Inadvertent Household Error (IHE) claim is established against the household in accordance with the procedures in § 1.17 of this Part.
  2. The household is informed, in writing, of the disqualification penalties for committing intentional program violation each time it applies for program benefits. The penalties are written in clear, prominent and boldface lettering on the application form.
  3. Disqualification penalties under § 15(b)(1) of the Food and Nutrition Act of 2008 shall be unposed as follows:
    - a. Any member of a household who knowingly uses, transfers, acquires, alters or possess coupons, authorization cards, or access devices in any manner contrary to the Regulations of the Act, can be barred from the Supplemental Nutrition Assistance Program for one (1) year to permanently. S/he may also be fined up to two hundred fifty thousand dollars (\$250,000.00), imprisoned up to twenty (20) years, or both.
    - b. S/he may also be subject to prosecution under other applicable Federal and State laws.
    - c. S/he may also be barred from the SNAP for an additional eighteen (18) months if court ordered. Individuals found to have committed an intentional program violation, either through an administrative disqualification hearing, or by a Federal, State, or local court, or who have signed a waiver of right to an administrative disqualification hearing shall be ineligible to participate in the program:

1. For a period of one (1) year for the first (1st) violation, with the exceptions in numbers §§ 1.9(A)(3)(g), (h), (i), (j) and (l) of this Part;
  2. For a period of two (2) years for the second (2nd) violation, with the exceptions in §§ 1.9(A)(3)(g), (h), (i), (j) and (l) of this Part; and,
  3. Permanently for the third (3rd) occasion of any intentional program 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 7 C.F.R. § 273.16(c):
- (1) Made a false or misleading statement, or misrepresented, concealed or withheld facts; or
  - (2) Committed any act that constitutes a violation of the 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).

## **1.13 Ongoing Case Management**

### **1.13.1 Changes**

- A. For reporting changes during a SNAP household's certification period, there are two (2) classifications:
2. Simplified Reporters: All other households are simplified reporters.
    - a. With the exception of the interim report and lottery/gambling winnings (see below), a simplified reporting household's sole reporting requirement is to report changes in income which bring the household's gross income in excess of the gross income eligibility standard for that size household by the tenth (10th) day of the month following the month in which the change occurred.
      - (1) If a household has an increase in its income, it must determine its total gross income at the end of the month. If the total gross income exceeds the household's SNAP gross income eligibility standard, the household must report the change no later than ten (10) days from the end of the calendar month in which the change occurred, provided that the household receives the payment with at least ten (10) days remaining in the month.

### 1.15 Determining Household Eligibility and Benefit Levels

- A. Under the approval from the Food and Nutrition Service (FNS) in the implementation of the Families First Coronavirus Response Act of 2020, the Department shall provide for the issuance of emergency supplements of the maximum amount for the household size for all eligible SNAP households during the COVID-19 crisis.

#### D. Calculating SNAP Allotments

- d. The benefit level may be determined from the basis of issuance table that follows:

#### **October 2019 – September 2020**

Household Size (3)

Maximum SNAP Allotment \$509.00

#### **October 2020 – September 2021**

Household Size (3)

Maximum SNAP Allotment \$535.00

### 1.17 Benefit Over Issuances and Claims

- A. A recipient claim is an amount owed because of:
  - 1. Benefits that are overpaid, or
  - 2. Benefits that are trafficked....
    - a. Trafficking is defined as buying or selling of benefit instruments such as EBT cards for cash or consideration other than eligible food.
    - b. This claim is a Federal debt subject to rules governing Federal debts.
- B. Establishing Claims against Households
  - 1. A claim referral is the identification of a potential over issuance that needs to be investigated and established as a claim by the Claims, Collections and Recovery (CCR) Unit.
  - 2. There are three (3) types of claims:
    - a. Intentional Program Violation (IPV)
      - (1) Any claim for an over issuance or trafficking resulting from an individual committing an IPV as defined in § 1.9 of this Part when:
        - (AA) An administrative disqualification hearing official or a court of appropriate jurisdiction has determined that a household member committed an IPV; or ...

### **1.17.1 Collection of Claims...**

#### **F. IPV Claims**

1. If a household member is found to have committed an intentional program violation (by an administrative disqualification hearing official or a court of appropriate jurisdiction), or has signed either a waiver of hearing, or a consent agreement, the agency must initiate collection action against the individual's household.
2. The agency must initiate such collection unless the household has already repaid the over issuance, the agency has documentation which shows the household cannot be located, or the agency determines that collection action may prejudice the case against a household member referred for prosecution.
3. The agency initiates collection action for an unpaid or partially paid claim even if collection action was previously initiated against the household while the claim was being handled as an inadvertent household error claim.
4. In cases where a household member was found guilty of misrepresentation of fraud by a court, or signed a disqualification consent agreement in cases referred for prosecution, the agency requests that the matter of restitution be brought before the court or addressed in the agreement reached between the prosecutor and the accused individual....

### **1.22 Fair Hearings...**

#### **K. Administrative Disqualification Hearings (ADH)**

1. An Administrative Disqualification Hearing (ADH) is initiated by the Claims, Collections, and Recoveries (CCR) Unit whenever there is sufficient documentary evidence to substantiate that an individual has committed one (1) or more intentional program violations as defined in § 1.9 of this Part.
  - a. Such cases include alleged intentional program violation claims in discretionary amounts not feasible for prosecution plus those in which the agency believes the facts of the individual case do not warrant civil or criminal prosecution through the appropriate court system.
  - b. Other cases may be those previously referred for prosecution, but for which prosecution was declined by the appropriate legal authority.
2. The agency may initiate an Administrative Disqualification Hearing regardless of the current eligibility of the individual.
  - a. If the individual is not eligible for the program at the time the disqualification period is to begin, the disqualification penalty shall be imposed as if the individual were eligible to participate at the time of the penalty imposition.

3. The administrative disqualification hearing may be conducted regardless of whether other legal action is planned against the household member.
4. Administrative disqualification hearings are held by the Administrative Disqualification Hearing Officer.
  - a. No person who has participated in the issue under review is eligible to serve as a Hearing Officer.
5. The agency publishes clearly written Rules of procedure for disqualification hearings which are made available to any interested party.
6. The agency provides written notice to the household member suspected of intentional program violation at least thirty (30) days in advance of the date a disqualification hearing initiated by the State has been scheduled.
  - a. If the notice is sent first class mail to the individual's address of record being maintained by the Department and is returned as undeliverable, the hearing may still be held.
  - b. In instances in which the individual claims good cause for failure to appear based on a showing of non-receipt of the hearing notice, the individual has thirty (30) days after the date of the written notice of the hearing decision to claim good cause.
7. For all Administrative Disqualification Hearings, ten (10) business days prior to the hearing date, the recipient and the agency must exchange a list of any expert witnesses and exchange expert reports to be presented at the hearing.
  - a. An expert witness is defined as a witness who possesses a special knowledge in a subject of a scientific, mechanical, professional, or technical nature; an expert report is a writing of an expert witness.
  - b. If the recipient does not intend to utilize an expert witness or expert report at the hearing, s/he does not need to exchange such expert witnesses' names and/or reports.
  - c. Failure to include such a witness or document prevents that party from presenting that witness or document at the hearing, unless the hearing officer finds that good cause exists for the failure to produce.
    - (1) If good cause is found to exist, the other party may request a continuance to consider and review the previously undisclosed evidence.
    - (2) If the agency representative receives a request to review the evidence and/or case file before the hearing, a review should be planned by contacting the CCR Unit.
8. The household, or its representative, must be given adequate opportunity to examine all documents and records to be used at the hearing, at a



reasonable time before the date of the hearing, as well as during the hearing.

- a. The contents of the case file, including the application form and documents of verification used by the agency representative to establish the household's ineligibility, or eligibility and allotment, must be made available, provided that confidential information, such as the names of individuals who have disclosed information about the household without its knowledge, or the nature or status of pending criminal prosecutions, is protected from release.
- b. If requested by the household or its representative, the agency representative must provide the relevant portions of the case file. All pertinent evidence and documents pertaining to the disqualification hearing will be available for inspection at the Office of the ADH Officer.
- c. Confidential information that is protected from release, and other documents or records which the household will not otherwise have an opportunity to contest or challenge, must not be presented at the hearing to affect the Hearing Officer's decision.

9. At the disqualification hearing, the Hearing Officer must advise the household member, or representative, that they may refuse to answer questions during the hearing.

- a. This refusal must, in no way prejudice the Hearing Officer's decision on the issues.

10. The household must also have the opportunity to:

- a. Present the case itself, or have it presented by a legal counsel or other person;
- b. Bring witnesses;
- c. Advance arguments without undue interference;
- d. Question or refute any testimony or evidence, including an opportunity to confront and cross-examine adverse witnesses; and,
- e. Submit evidence to establish all pertinent facts and circumstances in the case.

11. The hearing is attended by the representative(s) of the agency which initiated the action being contested and by the household and/or its representative.

- a. The hearing may also be attended by friends and relatives of the household if the household so chooses.
- b. However, the Hearing Officer has the authority to limit the number of persons in attendance at the hearing if it is determined that space limitations exist.

12. The hearing decision record must be retained for three (3) years and must also be available to the household or its representative for inspection and copying at any reasonable time.
  - a. A decision by the Administrative Disqualification Hearing Officer is binding on the agency and must summarize the facts of the case, specify the reasons for the decision, and identify the supporting evidence and the pertinent Regulations or policy.
  - b. The household is notified that it has the right to pursue judicial review of an adverse hearing decision.
  - c. The household and the agency representative are notified in writing of:
    - (1) The decision;
    - (2) The reasons for the decision; and
    - (3) The available appeal rights.
  
13. If the household member, or its representative, cannot be located or fails to appear at the hearing without good cause, the hearing is conducted without the household member represented.
  - a. If the household member is found to have committed an intentional program violation, but the Hearing Officer later determines that the household member, or representative, had good cause for not appearing, the previous decision must no longer remain valid and the agency must conduct a new hearing.
    - (1) The hearing official who originally ruled on the case may conduct the new hearing.
  - b. In instances in which the individual claims good cause for failure to appear based upon a showing of non-receipt of the hearing notice, the individual has thirty (30) days after the date of the written notice of the hearing decision to claim good cause.
    - (1) In all other instances, the household member has ten (10) days from the date of the scheduled hearing to present reasons indicating good cause for failure to appear.
    - (2) The individual shall provide evidence of the non-receipt of the hearing notice to the Administrative Disqualification Hearing Officer for consideration....

### **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.**