

BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA



DHS, OFFICE OF INSPECTOR GENERAL,
Petitioner,

v.

L [REDACTED] W [REDACTED],
Respondent.

Docket No.: [REDACTED]
[REDACTED]-OSAH-OIG-EBTFSF-60-Woodard

Agency Reference No.: [REDACTED]

FINAL DECISION

The Petitioner brought this action seeking to administratively disqualify the Respondent from participation in the Supplemental Nutrition Assistance (“Food Stamp”) Program based on alleged trafficking of food stamp benefits, an intentional program violation. The Petitioner further seeks to establish a claim against the Respondent’s household for the value of the trafficked benefits and to collect the claim by any allowable method. Advance written notice of the date, time, and location of the hearing was mailed to the Respondent by first class mail as required by 7 C.F.R. § 273.16(e)(3). An evidentiary hearing was held on May 11, 2023 at the Office of State Administrative Hearings (OSAH), Atlanta. Petitioner was represented by Lytia Brown, Attorney at Law, appearing as Special Assistant Attorney General. Respondent was represented by Anne E. Carder, Managing Attorney, Atlanta Legal Aid Society.

Prior to the presentation of evidence by Petitioner, the court granted Respondent’s Motion in Limine and excluded the following exhibits from the binder referred to as “Petitioner’s Large Trial Notebook:”

- Exhibit 1- TERMINAL LIST H.H. 9-22-21- TERMINAL NUMBERS
- Exhibit 4- USDA UNDERCOVER BUY REPORTS (1/31/17 TO 9/5/18)
- Exhibit 5- PHONE DUMP FROM HITESH HAJI- 333 SCREEN SHOT PHOTOGRAPHS

Emphasis found in Petitioner’s original Evidence List submitted with the Trial Notebook.

After consideration of the credible evidence and for the reasons stated below, the Petitioner’s request for administrative disqualification of the Respondent is **REVERSED**. Petitioner is not authorized to collect an overissuance of Food Stamps due to alleged trafficking nor is Respondent disqualified from participation in the Food Stamp Program.

I. Findings of Fact

1. The Respondent was a recipient of food stamp benefits in Georgia and the head of her food stamp household. The Respondent received her household’s monthly food stamp allotment via an electronic funds transfer from the Department of Human Services to an electronic benefit transfer (“EBT”) card issued to the Respondent.
2. The Food and Nutrition Service of the U.S. Department of Agriculture (“FNS”) learned that an entity doing business as “Dan’s Mobile Foods” might be committing intentional violations of Food Stamp Program rules and regulations by exchanging Food Stamps for cash or other non-eligible items. FNS sent its agent, Salina Walker, to conduct undercover buys from this entity. At the conclusion of her investigation, the owner of Dan’s Mobile Foods, Mr. Hitesh Harji, was arrested on eight counts of wire fraud, his operation’s ability to transact Food Stamps was terminated, and Mr. Harji was eventually convicted and sentenced to imprisonment in a Federal facility. (Petitioner’s Trial Notebook Exhibits 2,3; testimony of OIG Agent Melissa Holnes).
3. Following the FNS investigation, a referral was made to the Georgia Office of Inspector General of the Department of Human Services (“OIG”) to determine whether individuals who transacted their Food Stamps with Dan’s Mobile Foods should be disqualified from participation in the program, and if those individuals should be required to repay the dollar amount of Food Stamps they illegally transacted. (Testimony of Agent Holnes).
4. Agent Holnes never visited the mobile locations where Dan’s Mobile Foods conducted its business. She never spoke with Respondent or any other individual who transacted their Food Stamps at Dan’s Mobile Foods prior to finishing her investigation. Other than the computer-generated records of individuals’ purchases using their Food Stamp EBT cards on the point-of-sale terminals maintained by Petitioner’s third-party vendor, Agent Holnes had no personal knowledge of how Dan’s Mobile Foods conducted its business enterprise. She obtained all information regarding the business from the reports produced by Ms. Walker. (Testimony of Agent Holnes).
5. Based on Ms. Walker’s reports and a review of the third-party vendor records, Agent Holnes determined that Respondent transacted Food Stamps at Dan’s Mobile Foods in the amount of \$9,153.90. She notified Respondent that she intended to assert a claim for repayment of this amount, and also to seek Respondent’s disqualification from the Food Stamp Program for 24 months based on her second violation of program regulations. (Testimony of Agent Holnes; Evidence Packet specific to Respondent, Exhibits 3,4,5).

II. Conclusions of Law

1. Federal law requires that “[b]enefits issued to eligible households shall be used by them only to purchase food from retail food stores which have been approved for participation in the supplemental nutrition assistance program at prices prevailing in such stores . . .” 7 U.S.C. § 2016(b); see also 7 C.F.R. § 274.7(a).
2. An intentional program violation occurs when a food stamp applicant or recipient has "intentionally . . . [c]ommitted 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." 7 C.F.R. § 273.16(c)(2); see also 7 U.S.C. § 2015(b)(1).
3. The term “trafficking” is defined as “[t]he buying, selling, stealing, or otherwise effecting an exchange of [food stamp] benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone . . .” 7 C.F.R. § 271.2.
4. Because the evidence related to Agent Walker’s investigation of Dan’s Mobile Foods was excluded at the hearing, Agent Holnes had no independent knowledge regarding the business or its operations. Agent Holnes had insufficient information to establish that Petitioner met its burden and proved, by clear and convincing evidence, that the Respondent committed an intentional violation of the laws and rules governing the Food Stamp Program as required by 7 U.S.C. §§ 2015(b)(1), 2016(b); 7 C.F.R. §§ 271.2, 273.16(c)(2), (e)(6), 274.7(a). Therefore, Respondent cannot be disqualified from program participation pursuant to 7 U.S.C. § 2015(b)(1); 7 C.F.R. § 273.16(b)(1)

III. Decision

It is **ORDERED** that the Petitioner’s proposed action in this matter is **REVERSED**. Respondent is NOT administratively disqualified from participation in the Food Stamp Program, and Petitioner is NOT authorized to recoup an overissuance claim caused by Respondent’s alleged trafficking in benefits.

SO ORDERED, this ~~12th day of June, 2023.~~

Patricia Woodard

