



**DECISION OF
STATE AGENCY
ON APPEAL**

In the Appeal of: [REDACTED]

For: Disqualification from the Supplemental Nutritional Assistance Program (SNAP) and Minnesota Family Investment Program (MFIP) for One Year

Agency: [REDACTED] County

Docket: 198014

On October 17, 2017, Human Services Judge Jonathan R. Hall held an evidentiary hearing under Minn. Stat. § 256.046 to consider [REDACTED] County's request to disqualify the Respondent from the Supplemental Nutritional Assistance Program (SNAP) and the Minnesota Family Investment Program (MFIP) for one year.

The following persons appeared at the hearing:

[REDACTED] Agency Representative

The human services judge, based on the evidence in the record and considering the arguments of the parties, recommends the following findings of fact, conclusions of law, and order.

STATEMENT OF ISSUES

The issue raised in this appeal is:

Whether the agency's request to disqualify the Respondent, [REDACTED] from receiving benefits under the Supplemental Nutritional Assistance Program (SNAP) and the Minnesota Family Investment Program (MFIP) for one year because she committed an intentional program violation should be approved.

FINDINGS OF FACT

1. On August 30, 2017, [REDACTED] County Human Services (agency) submitted a hearing request to ask that the Respondent be disqualified from receiving benefits under the Supplemental Nutritional Assistance Program (SNAP) and the Minnesota Family Investment Program (MFIP) for one year because she committed an intentional program violation. *Exhibit I; [REDACTED] Testimony.* On September 14, 2017, the Minnesota Department of Human Services' (DHS) appeals office sent written notice to Respondent by first class mail that an evidentiary hearing on the county agency's allegations was set for October 17, 2017, together with copies of all of the information it had received from the county agency related to the allegations and evidence and information about the procedures governing the hearing process. The postal service did not return this material as undeliverable. On October 17, 2017, Human Services Judge Jonathan R. Hall held an evidentiary hearing via telephone conference. The Respondent did not appear at the hearing. The county agency was represented by [REDACTED]. The judge accepted one exhibit into the record.¹ The record was closed on October 17, 2017.

2. On July 5, 2016, the Respondent signed and submitted a completed Combined Application Form (CAF). The Penalty Warnings section of the CAF informs applicants of the penalties for breaking program rules:

- a. giving false information to get or continue to get cash or SNAP benefits, which include MFIP benefits, or if the applicant hides information about his or her identify and residency to obtain multiple benefits for the same period of time, the applicant may be barred from receiving benefits for ten years;
- b. trading or selling SNAP benefits or EBT access cards; and that the trade or sale of SNAP benefits valued at over \$500.00 may result in permanent ineligibility;
- c. using case or SNAP benefits to purchase ineligible items, such as tobacco or alcohol;
- d. using someone else's EBT access card to obtain cash or SNAP benefits;
- e. the state may bar an applicant or recipient who break any program rules.

The bar lasts for one year for the first fraud, two years for the second fraud and is permanent for the third fraud. A person who violates the rules may also be prosecuted and additional fines may apply;

¹ Request for Administrative Disqualification Hearing,

f. for SNAP purposes, if a federal, state or local court finds a household member of giving or receiving SNAP benefits in exchange for controlled substances, the household member will be barred from receiving SNAP benefits for 24 months for the first offense and permanently for the second offense. If a household member is found to have given or received SNAP benefits in exchange for firearms, ammunition or explosives, the household member will be barred from getting SNAP permanently. *Exhibit 1; ██████████ Testimony*. The CAF also requires the applicant to acknowledge by signature the truthfulness of all statements she makes on the CAF and that perjuring herself on the CAF may result in criminal and civil penalties. *Id.*

3. On October 9, 2016, the agency received a completed Authorization for Release of Employment Information signed by the Respondent on October 1, 2016. *Exhibit 1; ██████████ Testimony*. The Employer Information portion was to be completed and signed by the Respondent's Employer. It indicated that the Respondent was on unpaid FMLA leave from work and was not expected to return to work until 2017. *Id.* The signature on the form was illegible, so the agency's fraud investigator called the phone number listed to verify the information on the verification form. The phone number went to a voice mail message announcing that it was a number which belonged to the Respondent. *Id.*

4. On October 14, 2016, the Respondent signed a completed CAF wherein she reported "no" on question #8 that asked whether anyone in the household had a job or expected to get income from a job this month or next month. *Exhibit 1; ██████████ Testimony*. The Respondent answered "no" to question #11 which asked whether she expected any changes in income, expenses or work hours. *Id.* The Respondent answered "no" to question #21 which asked whether anyone in the household owned or is buying cash, a bank account, vehicles, life or burial insurance, stocks and bonds, real estate, or any other asset. *Id.* The Respondent acknowledged reading the Penalty warnings on page 8 of the CAF, and signed page 9, and acknowledged the perjury declarations and that all of the information she reported on the CAF was true and accurate to her knowledge. *Id.* The Respondent included a hand-written note stating "I am on FMLA unpaid leave & have submitted my last stub & wage verification forms as well as my lease information. Everything is on file already." *Id.*

5. On December 8, 2016, the agency received a Household Report Form (HRF) for November 2016 signed by the Respondent wherein she stated in response to question #3 that, in the past month she had no cash, savings or checking accounts, life insurance, stocks or bonds, motor vehicles burial funds or any other assets. *Exhibit 1; ██████████ Testimony*. The Respondent also reported that she had received no unearned income in November 2016. *Id.* On question #5, she reported that she worked zero hours in November 2016, and on question #9 she stated that she was "still on bedrest." *Id.* By signing the HRF, the Respondent acknowledged that the information she reported was true and correct to the best of her knowledge. *Id.*

6. On December 13, 2016, the agency received a "corrected" HRF for November 2016 from the Respondent. *Exhibit 1; ██████████ Testimony*. In it, the Respondent reported on question #3 that in the past month she had no cash, savings or checking accounts, life insurance, stocks or bonds, motor vehicles burial funds or any other assets. *Id.* On question #4, she reported that she had received unearned income in the amount of \$550.00 as "wages from mom."

Id. She reported that she had no earned income in November 2016. *Id.* Under question #9, she wrote “me and my children are covered under my work insurance as primary & Medica as secondary. I received \$300 from [REDACTED] for child support & \$250 from my mom for helping with legal aid papers-as reported on my file – no other income received.” *Id.* By signing the HRF, the Respondent acknowledged that the information she reported was true and correct to the best of her knowledge. *Id.*

7. On January 6, 2017, the agency received the Respondent’s HRF for December 2016, wherein she reported that she owned a vehicle worth \$3,500, that she had no earned or unearned income in December 2016. *Exhibit 1; [REDACTED] Testimony.*

8. On or about April 19, 2017, the agency received verification of income the Respondent received from [REDACTED] between the dates of September 20, 2014 through April 1, 2017, including the following pay dates:

May 6, 2016	\$1,866.46
May 20, 2016	\$1,760.98
June 3, 2016	\$1,263.20
June 17, 2016	\$1,563.36
July 1, 2016	\$1,263.20
July 15, 2016	\$1,389.52
July 29, 2016	\$1,263.20
August 12, 2016	\$1,606.63
August 26, 2016	\$1,581.37
September 9, 2016	\$1,591.95
September 23, 2016	\$1,584.92
October 7, 2016	\$ 378.96
November 18, 2016	\$ 952.14
December 2, 2016	\$1,497.02
December 16, 2016	\$ 943.46

Exhibit 1; [REDACTED] Testimony.

9. The Respondent has an extensive history of applying for and receiving public benefits from the agency, and has acknowledged on several occasions that she understands the program rules for obtaining benefits. *Exhibit 1; [REDACTED] Testimony.*

CONCLUSIONS OF LAW

1. The Commissioner of Human Services has jurisdiction over this administrative fraud disqualification hearing under Minn. Stat. 256.046, subd. 1. In turn, that provision incorporates the procedures and standards in 7 C.F.R. 273.16 and applies them to all human services programs subject to administrative fraud disqualification hearings.

2. The law says there are two conditions that must be met before determining whether an intentional program violation has occurred. First, the agency must have provided the household with general advance notice of the penalties for fraud violations. Second, the law

requires the hearing authority to provide written notice of the allegations to the respondent at least 30 days before the date of the disqualification hearing. Here, the agency provided the Respondent with general advance notice of the penalties for fraud violations and provided her with at least 30 days' notice before the hearing was held.

3. Once the notice of penalty and notice of hearing requirements are met, the substantive question the judge must address is whether the respondent's actions meet the definition of an intentional program violation. Under title 7 C.F.R. 273.16(c), an intentional program violation is defined as follows:

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 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).

4. The agency must prove by *clear and convincing* evidence that the individual committed, and intended to commit, the intentional program violation. 7 C.F.R. 273.16(e)(6). *Clear and convincing proof* requires more than a preponderance of the evidence but less than proof beyond a reasonable doubt; clear and convincing proof will be shown where the truth of the facts asserted is highly probable. In re *Estate of Lobe*, 348 N.W.2d 413 (Minn. App. 1984).

5. Once an intentional program violation has been proven by clear and convincing evidence, a penalty may be imposed. The penalty is based upon the number of previous violations. The disqualification periods are (1) one year after the first offense; (2) two years after the second offense; and (3) permanently after the third or subsequent offense. *Minn. Stat. § 256.98, subd. 8; 7 C.F.R. 273.16 (b)*. An individual found to have made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple food stamp [SNAP] benefits simultaneously shall be ineligible to participate in the program for a period of 10 years. 7 C.F.R. § 273.16(b)(5).

6. In this case, the agency has shown by clear and convincing evidence that the Respondent committed several intentional program violations through her many false statements regarding her wages from [REDACTED] during the time period the agency documented. The Respondent received earned income in the months of May, June, July, August, September October, November and December 2016, but failed repeatedly to report her earnings on the July 5, 2016 CAF, and the December 8, 2016, December 13, 2016 and January 6, 2017 HRFs. She reported on the HRFs that she was on unpaid FMLA status during the time that she was earning wages from [REDACTED]. Further, she signed and submitted a false employment verification form on October 10, 2016. Given the multiple failures by the Respondent to report her earned income when clearly instructed by program rules to do so, and her affirmative false

statements made in writing to the agency, I conclude that the agency has proven its case by clear and convincing evidence, and I recommend that its request to disqualify the Respondent from the SNAP and MFIP programs for one year be approved.

RECOMMENDED ORDER

THE HUMAN SERVICES JUDGE RECOMMENDS THAT, according to the findings of fact and conclusions of law, the agency's request for disqualification of Respondent from receiving benefits under the SNA and MFIP programs for one year be approved.

Jonathan R. Hall
Human Services Judge

Date

ORDER OF THE COMMISSIONER

IT IS THEREFORE ORDERED THAT based upon all the evidence and proceedings, the Commissioner of Human Services adopts the human services judge's recommended findings of fact, conclusions of law, and order as her final decision.

FOR THE COMMISSIONER OF HUMAN SERVICES:

Date

cc: [REDACTED] Respondent
[REDACTED] County, [REDACTED]
DHS 0245, [REDACTED]

FURTHER APPEAL RIGHTS

This decision is final, unless you take further action.

Appellants who disagree with this decision should consider seeking legal counsel to identify further legal recourse.

If you disagree with the effect this decision has on your eligibility for **Supplemental Nutrition Assistance Program (SNAP), Minnesota Family Investment Program (MFIP), or Diversionary Work Program (DWP)** benefits, you may:

- **Start an appeal in the district court.** This is a separate legal proceeding that you must start *within 30 days of the date of this decision*. You start this proceeding by serving a notice of appeal upon the other parties and the Commissioner, and filing the original notice and proof of service with the county district court. The law that describes this process is Minnesota Statute § 256.045, subdivision 7.²

If you disagree with this effect this decision has on your eligibility for **General Assistance (GA), Minnesota Supplemental Aid (MSA), MinnesotaCare or Child Care** benefits, you may:

- **Request the Appeals Office reconsider this decision.** The request must state the reasons why you believe your appeal should be reconsidered. The request may include legal arguments and may include proposed additional evidence supporting the request; however, if you submit additional evidence, you must explain why it was not provided at the time of the hearing. The request must be *in writing*, be made *within 30 days of the date of this decision*, and a *copy of the request must be sent to the other parties*. Send your written request, with your docket number listed, to:

Appeals Office
Minnesota Department of Human Services
P.O. Box 64941
St. Paul, MN 55164-0941
Fax: (651) 431-7523

- **Start an appeal in the district court.** This is a separate legal proceeding that you must start *within 30 days of the date of this decision*. You start this proceeding by serving a notice of appeal upon the other parties and the Commissioner, and filing the original notice and proof of service with the county district court. The law that describes this process is Minnesota Statute § 256.045, subdivision 7.

² County agencies do not have the option of appealing decisions about Supplemental Nutrition Assistance Program (SNAP), Minnesota Family Investment Program (MFIP), or Diversionary Work Program (DWP) benefits to district court under 7 C.F.R. § 273.15(q)(2) and Minnesota Statute § 256J.40.