

**U.S. Department of Agriculture  
Food and Nutrition Service  
Administrative and Judicial Review Branch**

**Quick Pick,**

**Appellant,**

**v.**

**Retailer Operations Division,**

**Respondent.**

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**Case Number: C0250567**

**FINAL AGENCY DECISION**

The United States Department of Agriculture (USDA), Food and Nutrition Service (FNS) finds that there is insufficient evidence to support the determination by the Retailer Operations Division (Retailer Operations) to deny the application of Quick Pick (hereinafter Appellant) to participate as a retailer in the Supplemental Nutrition Assistance Program (SNAP).

**ISSUE**

The purpose of this review is to determine whether Retailer Operations took appropriate action, consistent with Title 7 Code of Federal Regulations (CFR) Part 278, when it denied Appellant's application to participate in SNAP for a period of three years.

**AUTHORITY**

7 U.S.C. § 2023 and implementing regulations at 7 CFR § 279.1 provide, in part, that a food retailer aggrieved by administrative action under § 278.1, § 278.6 or § 278.7 may file a written request for review of the administrative action with FNS.

**CASE CHRONOLOGY**

In a letter dated November 15, 2021, Retailer Operations informed Appellant that its request to participate as a SNAP-authorized retailer was denied for a period of three years. The letter provided that sufficient evidence exists that Appellant has been found to be circumventing a period of disqualification through a purported transfer of ownership. This decision was made based on information submitted to FNS, and/or lack of corroborating documentation to support a bona fide transfer of ownership in connection with Appellant's application.

In a letter dated November 24, 2021, Appellant's owner requested an administrative review of Retailer Operations' denial determination. The request for review was granted by letter dated November 30, 2021.

### **STANDARD OF REVIEW**

In an appeal of adverse action, Appellant bears the burden of proving by a preponderance of the evidence that the administrative action should be reversed. This means Appellant has the burden of providing relevant evidence which a reasonable mind, considering the record as a whole, would accept as sufficient to support a conclusion that the matter asserted is more likely to be true than untrue.

### **CONTROLLING LAW**

The controlling law in this matter is contained in the Food and Nutrition Act of 2008, as amended (7 U.S.C. § 2018), and implemented through regulation under Title 7 CFR Part 278. Specifically, 7 CFR § 278.1(k)(3)(iii) establishes the authority upon which FNS shall deny the application of any firm applying for SNAP authorization if it lacks the necessary business integrity to further the purpose of the Program through an attempt to circumvent a period of disqualification.

7 CFR § 278.1(b)(3) states, in part:

FNS shall deny the authorization of any firm from participation in the Program for a period of time as specified in paragraph (k) of this section based on consideration of information regarding the business integrity and reputation of the firm as follows:

(iii) Evidence of an attempt by the firm to circumvent a period of disqualification, a civil money penalty, or fine imposed for violations of the Food and Nutrition Act of 2008 and Program regulations.

7 CFR § 278.1(k)(3)(iii) states, in part:

Firms for which evidence exists of an attempt to circumvent a period of disqualification, a civil money penalty, or fine imposed for violations of the Food and Nutrition Act of 2008, as amended, and Program regulations shall be denied for a period of three years from the effective date of denial.

7 CFR § 278.1(k)(6) states, in part, FNS shall deny the application of any firm if it determines that:

The firm has been found to be circumventing a period of disqualification through a purported transfer of ownership.

## APPELLANT'S CONTENTIONS

Appellant's owner provided the following summarized contentions:

- Appellant's owner is its only owner since March 2019, is positive there is something wrong with the ownership information, and requests a review of all documents for Appellant to accept SNAP.
- Appellant is a small, family-owned business. Appellant will likely be forced to shut down operations if unable to accept EBT with the effects of the COVID pandemic, struggling sales, and attracting new customers in a decimated community.
- Many people in the community and surrounding area have been affected by the COVID pandemic causing them to rely heavily on SNAP.

In support of these contentions, copies of the following documents were provided:

- Commercial Lease Agreements dated February 13, 2019, February 18, 2019, and March 12, 2019
- Electronic Articles of Organization for Florida Limited Liability Company, effective December 9, 2018
- Cashier's Check, in the amount of \$70,000, dated March 11, 2019
- Letter from Appellant owner's closing attorney with a copy of the Bill of Sale and Closing Statement, all dated March 12, 2019
- Deposit Account Balance Summary of Appellant owner's Chase Total Business Checking account, opened February 8, 2019, listing authorized signers
- Appellant's 2019 Business Tax Return
- Copy of Appellant owner's Florida Temporary Identification Card
- Copy of Appellant owner's Social Security card, valid for work only with DHS authorization

In reaching a decision, full attention was given to all contentions presented, including any not specifically listed here.

## ANALYSIS AND FINDINGS

The purpose of this review is to either validate or invalidate the 3-year denial determination of Retailer Operations. Thus, this review is limited to consideration of the relevant facts and circumstances as they existed at the time Retailer Operations rendered its decision.

A review of Retailer Operations' case file indicates the determination cannot be supported based on the evidence. Accordingly, it is unnecessary to address Appellant's contentions in this matter. However, in reaching a decision, full attention and consideration have been given to all contentions presented

## CONCLUSION

Based on the analysis above, the determination by Retailer Operations to deny Appellant's SNAP application for a period of three years, is **reversed**. The application must be approved if

Appellant is otherwise eligible for SNAP authorization under all other applicable provisions and requirements of SNAP regulations.

Under the Freedom of Information Act, we are releasing this information in a redacted format as appropriate. FNS will protect, to the extent provided by law, personal information that could constitute an unwarranted invasion of privacy.

KIM DAMERON  
ADMINISTRATIVE REVIEW OFFICER

July 21, 2022