

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

Quickmart-LA,

Appellant,

v.

Retailer Operations Division,

Respondent.

Case Number: C0256875

FINAL AGENCY DECISION

The U.S. Department of Agriculture (USDA), Food and Nutrition Service (FNS) finds that there is sufficient evidence to support the determination by the Retailer Operations Division to assess a fine against Quickmart-LA (Appellant) in the amount of \$387,933.20 for unauthorized acceptance of Supplemental Nutrition Assistance Program (SNAP) benefits.

ISSUE

The purpose of this review is to determine whether the Retailer Operations Division took appropriate action, consistent with Title 7 of the Code of Federal Regulations (CFR) § 278.6(m), when it assessed a fine for unauthorized acceptance of SNAP benefits against Appellant.

AUTHORITY

7 USC § 2023 and the implementing regulations at 7 CFR § 279.1 provide that “A food retailer or wholesale food concern 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

The record shows that on August 19, 2021, Appellant’s owner completed a SNAP Application for authorization and was authorized as a SNAP retailer on October 6, 2021. On December 14, 2021, the Retailer Operations Division requested the Bill of Sale for the business. The record shows that the owner then requested to withdraw its authorization to participate as a SNAP retailer which was effective December 14, 2021.

USDA is an equal opportunity provider, employer and lender.

Subsequently, the Retailer Operations Division notified Appellant in a letter dated September 19, 2022, that the USDA conducted an investigation of the firm and detected the unauthorized acceptance of benefits at Appellant from September 4, 2021, and September 18, 2021. The firm was charged with accepting SNAP benefits as an unauthorized store and redeeming SNAP benefits under the authorization of two other firms. According to the letter, such unauthorized acceptance of SNAP is a violation of the Food and Nutrition Act of 2008, as amended, and SNAP regulations. The letter further stated that regulations at 7 CFR §278.6(m) gave FNS the authority to impose a fine against any firm that illegally accepted SNAP benefits.

On September 22, 2022, Appellant, through counsel replied to the letter of charges and denied that the violations occurred. After considering the retailer's reply and the evidence, the Retailer Operations Division issued a determination letter dated October 6, 2022. The determination letter informed Appellant it was assessed a fine of \$387,933.20 for the unauthorized acceptance of SNAP benefits under 7 CFR § 278.6(m) and 278.2(a) of the SNAP regulations.

By letter dated October 13, 2022, Appellant, through counsel, requested an administrative review of the Retailer Operations Division's determination. The appeal was granted and implementation of the disqualification has been held in abeyance pending completion of this review.

STANDARD OF REVIEW

In appeals of adverse actions, the Appellant bears the burden of proving by a preponderance of the evidence, that the administrative actions should be reversed. That means the 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 not true.

CONTROLLING LAW

The controlling law in this matter is contained in the Food and Nutrition Act of 2008, as amended (7 U.S.C. § 2021), and implemented through regulation under Title 7 CFR Part 278. In particular, 7 CFR § 278.6(m) establishes the authority upon which a fine may be assessed against a firm that accepts SNAP benefits without authorization.

7 CFR § 278.6(m) reads, in part:

Fines for unauthorized third parties that accept food stamps. FNS may impose a fine against any individual, sole proprietorship, partnership, corporation or other legal entity not approved by FNS to accept and redeem food coupons for any violation of the provisions of the Food and Nutrition Act of 2008, as amended, or the program regulations, including violations involving the acceptance of coupons. The fine shall be \$1,000 for each violation plus an amount equal to three times the face value of the illegally accepted food coupons. The fine shall be paid in full within 30 days of the individual's or legal entity's receipt of FNS' notification to pay the fine. The Attorney General of the United States may institute judicial action in any court of competent jurisdiction against the person to collect the fine. FNS may withdraw the authorization of any firm that is under the same ownership as an unauthorized firm that has failed to pay such a fine, as specified under § 278.1(k). FNS may deny authorization to any firm that has failed to pay such a fine, as specified under § 278.1(j).

ANALYSIS AND FINDINGS

Appellant, through counsel, denied that the violations took place. However, the record documents that the charges of violations are based on the findings of a formal USDA investigation. A complete review of this documentation, including the investigative report, has yielded no error or discrepancy. The investigation report is specific and thorough regarding the dates of the violations, the specific facts related thereto, and is supported by documentation that confirms specific details of the transactions. The documentation presented by the Retailer Operations Division provides through a preponderance of the evidence that the violations as reported occurred at the Appellant firm.

SNAP regulations at 7 CFR § 278.6(m) permit FNS to issue a fine to unauthorized parties that accept SNAP benefits. The regulation states that “the fine shall be \$1,000 for each violation plus an amount equal to three times the face value of the illegally accepted food coupons.” Please note that coupons are defined in 7 CFR § 271.2 to include “... an electronic benefit transfer card or personal identification number issued pursuant to the provisions of the Food and Nutrition Act of 2008, as amended, for the purchase of eligible food.”

The Retailer Operations Division determined that Appellant redeemed SNAP benefits when it was unauthorized to do so from September 4, 2021, and September 18, 2021. During that time period the store conducted 1,162 transactions equal or greater than \$10.00, for a total amount of \$119,644.40 in SNAP benefits. According to the formula in 7 CFR § 278.6(m), the Retailer Operations Division correctly calculated the fine for unauthorized acceptance of SNAP benefits in this case as \$387,933.20.

CONCLUSION

Based on the discussion above, the determination by the Retailer Operations Division to assess a fine against Quickmart-LA of \$387,933.20 for unauthorized acceptance SNAP benefits is sustained in accordance with 7 CFR § 278.6(m).

In accordance with the Food and Nutrition Act of 2008, as amended, and the regulations there under, this penalty shall become effective thirty (30) days after receipt of this letter. Appellant may contact the FNS Financial Management Accounting Division at 1-703-605-0483 to discuss payment or follow the instructions in the Retailer Operations Division’s letter dated October 6, 2022, regarding online or check payment options.

RIGHTS AND REMEDIES

Applicable rights to a judicial review of this decision are set forth in 7 USC § 2023 and 7 CFR § 279.7. If a judicial review is desired, the Complaint, naming the United States as the defendant, must be filed in the U.S. District Court for the district in which the Appellant’s owner resides or is engaged in business, or in any court of record of the State having competent jurisdiction. If any Complaint is filed, it must be filed within thirty (30) days of receipt of this Decision.

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.

MARY KATE KARAGIORGOS
Administrative Review Officer

April 26, 2023