

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

Stop-N-Save,

Appellant,

v.

Retailer Operations Division,

Respondent.

Case Number: C0256360

FINAL AGENCY DECISION

The United States Department of Agriculture (USDA), Food and Nutrition Service (FNS) finds that there is insufficient evidence to support the decision of the Retailer Operations Division to withdraw the authorization of Stop-N-Save (Appellant) to participate as an authorized retailer in the Supplemental Nutrition Assistance Program (SNAP). As a result, the Retailer Operations Division shall continue to process the firm's reauthorization application.

ISSUE

The issue accepted for review is whether the Retailer Operations Division took appropriate action, consistent with 7 CFR 278.1(n) in its administration of the SNAP when it withdrew the authorization of the Appellant to participate as an authorized SNAP retailer.

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

In a letter dated June 29, 2022, the Retailer Operations Division informed Appellant that it was being withdrawn from the SNAP due to a failure to cooperate in the reauthorization process under 7 CFR 278.1(n). The letter noted that the Retailer Operations Division had not received information requested in a letter dated June 16, 2022, that was needed to complete the reauthorization process. The letter noted that Appellant could reapply at any time after its withdrawal by completing an online store application.

USDA is an equal opportunity provider, employer and lender.

In a letter dated July 14, 2022, Appellant requested an administrative review of the Retailer Operation Division's decision to withdraw the firm's SNAP authorization. The request for administrative review was granted and implementation of the withdrawal was held in abeyance pending completion of this review.

STANDARD OF REVIEW

In appeals of adverse actions, an appellant bears the burden of proving by a preponderance of the evidence, that the administrative actions should be reversed. That means an appellant has the burden of providing relevant evidence which a reasonable mind, considering the record as a whole, might accept as sufficient to support a conclusion that the matter asserted is more likely to be true than not true.

CONTROLLING LAW AND REGULATIONS

The controlling law in this matter is covered in the Food & Nutrition Act of 2008, as amended, 7 USC § 2018, and SNAP regulations at Title 7 Code of Federal Regulations (CFR) Parts 271 and 278. In particular, SNAP regulations at 7 CFR § 278.1(n) establishes the authority upon which FNS may withdraw an application from a retail food store or wholesale food concern.

7 CFR 278.1(n) states

Periodic reauthorization. At the request of FNS a retail food store or wholesale food concern will be required to undergo a periodic reauthorization determination by updating any or all of the information on the firm's application form. Failure to cooperate in the reauthorization process will result in withdrawal of the firm's approval to participate in the program.

APPELLANT'S CONTENTIONS

Appellant made the following summarized contentions in its July 14, 2022, request for administrative review, in relevant part:

- The request for information was in a SPAM e-mail folder.
- Appellant apologized for the delay and attached the requested tax return.

The preceding may represent only a brief summary of the Appellant's contentions in this matter. However, in reaching a decision, full attention and consideration has been given to all contentions presented, including any not specifically recapitulated or specifically referenced herein.

ANALYSIS AND FINDINGS

A review of the evidence in this case does not support the Retailer Operations Division's withdrawal of Appellant for failing to cooperate in the authorization process. Accordingly, it is unnecessary to list or address the Appellant's contentions in this matter.

This administrative review decision is based on the specific circumstances of this case as documented by materials provided by the Appellant and the Retailer Operation Division. In addition, this administrative review decision does not establish policy or supersede federal law or regulations.

CONCLUSION

Based on a review of all available information in this case, the determination by the Retailer Operations Division to withdraw the SNAP authorization of Stop-N-Save is reversed.

The Retailer Operations Division shall continue to process the firm's reauthorization application.

RIGHTS AND REMEDIES

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

December 8, 2022