

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

**Zabeeha Farms,**

**Appellant,**

**v.**

**Retailer Operations Division,**

**Respondent.**

**Case Number: C0268351**

**FINAL AGENCY DECISION**

The U.S. Department of Agriculture (USDA) Food and Nutrition Service (FNS) finds there is insufficient evidence to support the determination by the Retailer Operations Division to withdraw the authorization of Zabeeha Farms (“Appellant”) to participate as a retailer in the Supplemental Nutrition Assistance Program (SNAP).

**ISSUE**

The issue accepted for review is whether the Retailer Operations Division took appropriate action, consistent with Title 7 Code of Federal Regulations (CFR) Part 278, when it withdrew the authorization of Appellant to participate as a SNAP retailer.

**AUTHORITY**

7 U.S.C. § 2023 and 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 SUMMARY**

In a letter dated March 6, 2023, the Retailer Operations Division informed Appellant that it was being withdrawn from the SNAP due to a failure to cooperate in the continued authorization process under 7 CFR 278.1(j) and (n). The letter noted that the Retailer Operations Division had not received information requested in a previous letter, dated December 28, 2022, which was needed to complete the reauthorization process. The letter noted that the withdrawal would be effective within 10 calendar days of receipt of the letter but that the withdrawal of the firm would

not adversely impact any future application. The letter also stated that Appellant may reapply at any time after the withdrawal by submitting an online store application.

On March 16, 2023, Appellant requested an administrative review of the withdrawal determination. Appellant's request was granted.

### **STANDARD OF REVIEW**

In an appeal of an adverse action, such as the withdrawal of a firm's SNAP authorization, an appellant bears the burden of proving by a preponderance of the evidence that the administrative action should be reversed. This means an 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. § 2018), and implemented through regulation under Title 7 CFR Part 278. In particular, 7 CFR § 278.1(m) establishes the authority upon which the authorization of any firm to participate in SNAP may be withdrawn if it fails to meet established eligibility requirements.

7 CFR § 278.1(b) relays specific program requirements for retail food store participation, which reads, in part:

An applicant shall provide sufficient data and information on the nature and scope of the firm's business for FNS to determine whether the applicant's participation will further the purposes of the program. Upon request, an applicant shall provide documentation to FNS to verify information on the application. Such information may include, but is not limited to, State and local business licenses, Social Security cards, drivers' licenses, photographic identification cards, bills of sale, deeds, leases, sales contracts, State certificates of incorporation, sales records, invoice records and business-related tax records. Retail food stores and wholesale food concerns and other entities eligible for authorization also shall be required to sign a release form which will authorize FNS to verify all relevant business-related tax filings with appropriate agencies. In addition, they must obtain corroborating documentation from other sources as deemed necessary to ensure the legitimacy of applicant firms, as well as the accuracy of information provided by the stores and concerns. Failure to comply with any request for information or failure to sign a written release form shall result in denial of the application for authorization or withdrawal of a firm or concern from the program...

7 CFR § 278.1(m) states:

FNS may withdraw or deny the authorization of any firm which: (1) Refuses to accept correspondence from FNS; (2) Fails to respond to inquiries from FNS within a reasonable time; or (3) Cannot be located by FNS with reasonable effort.

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 reauthorization process will result in the withdrawal of the firm's approval to participate in the program.

### **ANALYSIS AND FINDINGS**

A review of the evidence in this case does not support the Retailer Operations Division's withdrawal determination for failure to cooperate. Accordingly, it is unnecessary to list or address 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 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 Zabeeha Farms from participation as a SNAP retailer for failure to cooperate is reversed.

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

### **RELEASE OF INFORMATION**

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.

DAVID SHIVELY  
ADMINISTRATIVE REVIEW OFFICER

April 7, 2023