

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

Three O’s Food Mart,

Appellant,

v.

Case Number: C0193813

Retailer Operations Division,

Respondent.

FINAL AGENCY DECISION

It is the decision of the U.S. Department of Agriculture (USDA), Food and Nutrition Service (FNS) that a permanent disqualification of Three O’s Food Mart (hereinafter “Appellant”) from participation as an authorized retailer in the Supplemental Nutrition Assistance Program (SNAP) was properly imposed by FNS’s Retailer Operations Division.

ISSUE

The issue accepted for review is whether or not the Retailer Operations Division, in its administration of SNAP, took appropriate action consistent with Title 7 Code of Federal Regulations (CFR) Part 278 when it imposed a permanent disqualification against Three O’s Food Mart.

AUTHORITY

7 U.S.C. § 2023 and its 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

Three O’s Food Mart was initially authorized to participate as a retailer in SNAP on October 10, 2007. Between November 4, 2016, and January 11, 2017, a USDA investigator and confidential informant conducted an undercover investigation at Three O’s Food Mart to ascertain the firm’s compliance with Federal SNAP laws and regulations. It was reported that during the course of the investigation the Appellant firm violated SNAP rules by allowing ineligible non-food items to be purchased with SNAP benefits on three separate occasions. The firm also reportedly committed the violation of trafficking by stealing SNAP benefits from the confidential informant’s EBT card after the confidential informant had left the premises.

In a letter dated September 20, 2017, the Retailer Operations Division charged the Appellant with trafficking, as defined in Section 271.2 of the SNAP regulations. It also charged the Appellant with accepting SNAP benefits in exchange for ineligible non-food merchandise. The misuse of SNAP benefits, as described in the charge letter, is a violation of 7 CFR § 278.2(a). The charge letter informed the Appellant that the violations warranted permanent disqualification from SNAP as provided in 7 CFR § 278.6(e)(1). The letter also stated that the Appellant could request a civil money penalty (CMP) in lieu of permanent disqualification for trafficking, but noted that such a request must be made within 10 days of receipt of the letter under the conditions specified in 7 CFR § 278.6(i).

In a letter dated September 29, 2017, the Appellant, through counsel, requested additional time to respond to the charges. In doing so, Appellant acknowledged that it was forfeiting its right to a civil money penalty in lieu of permanent disqualification.

On October 20, 2017, Appellant's counsel submitted a request for case file information in a request made under the Freedom of Information Act (FOIA). On November 1, 2017, the FNS FOIA office responded to the Appellant's request by providing a five-page letter and 47 pages of responsive documents.

On January 30, 2018, Appellant's counsel filed an appeal of the agency's response to the FOIA request. This appeal was accepted and any actions related to the charge letter were placed on hold pending a response to the FOIA appeal.

On January 30, 2020, the FOIA appeal response was completed by FNS and delivered to Appellant's counsel via e-mail on February 4, 2020.

On February 13, 2020, the Appellant, through counsel, submitted its formal response to the September 20, 2017 charge letter. In its reply, the Appellant denied that the firm had engaged in trafficking and stated that the firm has a policy against trafficking. According to the Appellant, each employee is trained on accepting SNAP benefits and only a handful of employees have ever operated the cash register.

The Appellant stated that since the firm was not charged with selling ineligible items, its reply was being restricted to the trafficking charges only. *(It should be noted that this claim by the Appellant is inaccurate, as the charge letter very clearly states that in addition to trafficking, the Appellant was charged with accepting SNAP benefits in exchange for common ineligible non-food items.)* The Appellant argued that FNS lacked sufficient evidence upon which to base an allegation of trafficking. The Appellant further stated that FNS provided no details, such as transaction data or point-of-sale terminal information to support the allegation. The only data provided was a single statement at the bottom of Exhibit E of the investigation report.

The Appellant further argued that it was impossible for the transaction to have occurred in the manner described in the charge letter, claiming that the store could not have possibly had the PIN number associated with the card and had no record of the card number except for the last four digits. Additionally, the EBT card would have had to have been swiped by the participant on the

customer's side of the counter, so the clerk would not have had such information. Finally, without the PIN, the transaction could not have been processed. The Appellant claimed that if the transaction was, in fact, processed, it is more likely that the confidential informant passed the card number and PIN off to a third party "with instructions to either use the card or the card number at the Store in an attempt to obscure a misuse of the benefits." According to the Appellant, the confidential informant was the only person with access to all of the information necessary to make the transaction besides the investigator, who the Appellant said was not likely to have committed a violation. The Appellant also argued that there was no documentation indicating that the investigator received the EBT card back from the confidential informant.

Finally, the Appellant claimed that the investigator's affidavit in this matter is "hearsay" and is uncorroborated and the Appellant has not been given a reasonable opportunity to subpoena or otherwise depose the witness because FNS redacted all identifying information prior to sending the charge letter and its FOIA response. As a result, the Appellant claimed that it is impossible for it to determine if the investigator's statement is biased. The Appellant stated that the most likely scenario is that the investigator had a personal interest in obtaining proof of trafficking and simply manufactured a transaction that did not occur as it is alleged to have.

After considering the Appellant's response and further gathering and reviewing the evidence in the case, the Retailer Operations Division concluded that trafficking had occurred as charged and issued a determination letter dated August 5, 2020. This letter informed the Appellant that it would be permanently disqualified from SNAP upon receipt of the letter in accordance with 7 CFR § 278.6(c) and § 278.6(e)(1). The letter also stated that the Retailer Operations Division considered the Appellant's eligibility for a trafficking CMP according to the terms of Section 278.6(i) of the regulations, but determined that a CMP was not appropriate in this case because the Appellant failed to submit sufficient evidence to demonstrate that the firm had established and implemented an effective compliance policy and program to prevent SNAP violations.

In a letter postmarked August 13, 2020, the Appellant, through counsel, appealed the Retailer Operations Division's determination by requesting an administrative review. The request was granted.

STANDARD OF REVIEW

In an appeal of adverse action, such as disqualification from SNAP participation, an appellant bears the burden of proving by a preponderance of the evidence that the administrative action should be reversed. This means that 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 & REGULATIONS

The controlling law in this matter is found in the Food and Nutrition Act of 2008, as amended (7 U.S.C. § 2021), and promulgated through regulation under Title 7 CFR Part 278. In particular, 7 CFR § 278.6(a) and (e)(1)(i) establish the authority upon which a permanent disqualification may be imposed against a retail food store or wholesale food concern.

7 U.S.C. § 2021(b)(3)(B) states, in part:

...[A] disqualification under subsection (a) shall be... permanent upon...the first occasion or any subsequent occasion of a disqualification based on the purchase of coupons or trafficking in coupons or authorization cards by a retail food store or wholesale food concern or a finding of the unauthorized redemption, use, transfer, acquisition, alteration, or possession of EBT cards...

7 CFR § 278.2(a) states, in part:

[SNAP benefits] may be accepted by an authorized retail food store only from eligible households...only in exchange for eligible food.

7 CFR § 278.6(a) states, in part:

FNS may disqualify any authorized retail food store...if the firm fails to comply with the Food and Nutrition Act of 2008, as amended, or this part. Such disqualification shall result from a finding of a violation on the basis of evidence that may include facts established through on-site investigations.... Disqualification shall be for a period of 6 months to 5 years for the firm's first sanction; for [a] period of 12 months to 10 years for a firm's second sanction; and disqualification shall be permanent for a disqualification based on paragraph (e)(1) of this section.[Emphasis added.]

7 CFR § 278.6(c) states, in part:

The letter of charges, the response, and any other information available to FNS shall be reviewed and considered by the appropriate FNS regional office, which shall then issue the determination. In the case of a firm subject to permanent disqualification under paragraph (e)(1) of this section, the determination shall inform such a firm that action to permanently disqualify the firm shall be effective immediately upon the date of receipt of the notice of determination from FNS, regardless of whether a request for review is filed in accordance with part 279 of this chapter.

7 CFR § 278.6(e) states, in part:

The FNS regional office shall:

(1) Disqualify a firm permanently if:

(i) Personnel of the firm have trafficked as defined in § 271.2.

7 CFR § 271.2 states, in part:

Trafficking means:

The buying, selling, stealing, or otherwise effecting an exchange of SNAP benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone...

7 CFR § 271.2 states, in part:

Eligible foods means: Any food or food product intended for human consumption except alcoholic beverages, tobacco and hot food and hot food products prepared for immediate consumption.

7 CFR § 278.6(b)(2)(ii) states, in part:

Firms that request consideration of a civil money penalty in lieu of a permanent disqualification for trafficking shall have the opportunity to submit to FNS information and evidence... that establishes the firm's eligibility for a civil money penalty in lieu of a permanent disqualification in accordance with the criteria included in § 278.6(i). This information and evidence shall be submitted within 10 days, as specified in § 278.6(b)(1).

7 CFR § 278.6(b)(2)(iii) states:

If a firm fails to request consideration for a civil money penalty in lieu of a permanent disqualification for trafficking and submit documentation and evidence of its eligibility within the 10 days specified in § 278.6(b)(1), the firm shall not be eligible for such a penalty.

7 CFR § 278.6(i) states, in part:

FNS may impose a civil money penalty in lieu of a permanent disqualification for trafficking ... if the firm timely submits to FNS substantial evidence which demonstrates that the firm had established and implemented an effective compliance policy and program to prevent violations of the Program...

SUMMARY OF INVESTIGATION

During an undercover investigation conducted between November 4, 2016 and January 11, 2017, FNS completed five compliance visits at Three O's Food Mart. A report of the investigation was provided to the Appellant as an attachment to the September 20, 2017, charge letter. The investigation report includes Exhibits A through E, which provide full details on the results of each compliance visit. SNAP violations were documented during three of the five visits and included a trafficking violation after the final visit to the store, as noted in Exhibit E. The report indicates that the following ineligible non-food items were purchased by a confidential informant using SNAP benefits:

- One 1,000-sheet roll of bathroom tissue (*Scott* brand), Exhibit C
- One scrub sponge (no brand indicated), Exhibit C
- One roll of bathroom tissue (*Simply Soft* brand), Exhibit D
- One 3.75-ounce bar of soap (*Irish Spring* brand), Exhibit D
- One roll of bathroom tissue (*Simply Soft* brand), Exhibit E
- One 3.75-ounce bar of soap (*Irish Spring* brand), Exhibit E

Trafficking was reported after the conclusion of the final visit to the store on 5 U.S.C. § 552 (b)(6) & (b)(7)(C). In reporting the events of 5 U.S.C. § 552 (b)(6) & (b)(7)(C), the investigator provided the following details, as noted in Exhibit E:

5 U.S.C. § 552 (b)(7)(E)

Exhibit E indicates that for the unauthorized trafficking transaction, the store charged the confidential informant's EBT card a total of 5 U.S.C. § 552 (b)(6) & (b)(7)(C).

Because of the seriousness and penalty requirements of trafficking in SNAP benefits in comparison to the sale of ineligible items, the Retailer Operations Division determined that the penalty in this case would be permanent disqualification.

APPELLANT'S CONTENTIONS

The Appellant, through counsel, made the following summarized contentions in its request for administrative review, in relevant part:

- After a careful review of FNS's allegations and a review of the pertinent case law on this issue, FNS appears to lack sufficient evidence upon which to base an allegation of trafficking.
- Each of the firm's three clerks were trained in EBT and had demonstrated adequate knowledge in the rules and processes of SNAP prior to conducting transactions.
- None of the clerks had issues with theft, neglect, or any other type of act that would indicate a propensity to violate laws or regulations. They lacked any motivation to conduct illegitimate transactions.
- FNS's investigator was not present during the transaction in question and admitted that the store did not have access to the EBT card number or PIN. It is therefore difficult to see how FNS had adequate evidence to substantiate its burden in the initial charging of the firm with trafficking, since all that exists is an alleged transaction with no witnesses, no scan data, and no knowledge on the part of the store to run such a transaction on its own. Conversely, the confidential informant did have access to the information and opportunity to process it. Since there are competing theories for the presence of the transaction and no direct evidence of a violation, the store should not be disqualified.
- The transaction in question was run by the only person who had access to the information: the confidential informant.
- Appellant adamantly denies any intentional violation of SNAP regulations. The firm has a strict compliance policy and have never been previously accused of violations. FNS appears not to have considered the Appellant's history of compliance when determining an appropriate sanction, as required by 7 CFR § 278.6(d).
- In order for FNS to issue a permanent disqualification, it must prove that trafficking occurred. In the absence of evidence, FNS may not issue a permanent disqualification.
- There are no details and no documentation reflecting the 5 U.S.C. § 552 (b)(6) & (b)(7)(C). There is no transaction data or point-of-sale terminal information which would support the allegation except for a single statement at the bottom of Exhibit E in the investigation report. Whether or not this transaction actually appears on the transaction reports that FNS has access to, is unknown.
- It is impossible for the transaction to have occurred in the manner described in the charge letter. The store could not possibly have had the PIN number, which was admitted by the confidential informant and investigator. The store did not have any record of the card number except the last four digits that are included on the receipt. The EBT card would have been swiped by the participant on the customer's side of the counter, so the cashier would not have had that information. Additionally, without the PIN, the transaction could not have been processed.

- If the transaction actually occurred, it is more likely that the confidential informant, who had possession of the card and PIN, could have passed the information off to a third party with instructions to either use the card or the card number at the store in an attempt to obscure a misuse of the benefits, or perhaps used the information himself.
- There is no documentation indicating that the investigator received the EBT card back from the confidential informant. It is unusual that the investigator noted that neither he nor the confidential informant were present for the transaction rather than simply saying that he had the card in his possession at the time of the transaction.
- This highly irregular allegation against the store does not create a *prima facie* case of trafficking against the store.
- The investigator's affidavit is hearsay. The admission of hearsay evidence is dependent on whether the hearsay declarant was biased; whether the party opposing the hearsay had access to the information and could have subpoenaed the declarant; whether the information is inconsistent on its face; and whether courts have recognized the information as inherently reliable. Hearsay evidence may also be admissible where it is corroborated. In this case, FNS has failed to make any of these showings. As such, the investigator's uncorroborated affidavit should not be relied upon by FNS in determining whether or not trafficking has occurred.
- In the event that FNS chooses to consider the impermissible affidavit, Appellant contests that the transaction occurred as described by the investigator.
- Appellant requests that the charge letter be rescinded and a warning letter be issued.
- Trafficking in SNAP benefits has never been a practice of the store. What is more likely is that the investigator has a personal interest in obtaining proof of trafficking and simply manufactured a transaction that did not occur as alleged.
- In the alternative, Appellant requests a hardship civil money penalty. The store stocks a considerable amount of food to provide for the needs of the local SNAP participants. Without access to these foods at the Appellant's store, SNAP participants would be unduly burdened.

The preceding may represent only a brief summary of the Appellant's contentions presented in this matter. However, in reaching a decision, full attention was given to all contentions presented, including any not specifically summarized or explicitly referenced in this document.

ANALYSIS AND FINDINGS

It is notable that the Appellant has not offered any evidence to counter FNS's allegations of trafficking or the sale of ineligible items. Conversely, the Retailer Operations Division has provided a copy of an investigation report which clearly identifies a potential trafficking incident as well as ineligible non-food items that the firm allowed a confidential informant to purchase with SNAP benefits. Also included in the case record are photographs of the eligible and ineligible items purchased, EBT point-of-sale receipts, and evidence that the merchandise was later donated. As such, this review finds that at a minimum Three O's Food Mart should be subject to a six-month disqualification for the sale of ineligible, non-food items, in accordance with SNAP regulations at 7 CFR § 278.6(e)(5). The firm was charged with this violation, but the Appellant elected not to address these charges.

The key issue in this case, however, is whether it is more likely true than not true that the Appellant firm also committed the violation of trafficking. If the evidence shows, by a preponderance of the evidence, that trafficking likely occurred, then permanent disqualification is the required penalty, regardless of any prior compliance history at the store or its claims that the firm's employees were trained on the proper handling of SNAP benefits. A finding of trafficking would also negate any possibility of a hardship CMP, as such a penalty is not an option in a trafficking case (see 7 CFR § 278.6(f)(1)).

It also bears repeating that in an administrative review, the onus is on the Appellant to prove by a preponderance of the evidence that the administrative action should be reversed. It is incumbent on the Appellant to provide sufficient evidence and explanation to persuade this review that trafficking did not occur. Because the Appellant has not submitted any evidence to support its contentions, this review has little option but to evaluate the Appellant's defense on its written explanations alone.

The Appellant contends that there is no evidence that the 5 U.S.C. § 552 (b)(6) & (b)(7)(C), actually occurred. According to the Appellant, the only reference to the transaction is a statement written by the investigator at the bottom of Exhibit E of the investigation report.

With regard to this argument, agency electronic SNAP records clearly show that an 5 U.S.C. § 552 (b)(6) & (b)(7)(C) transaction did, in fact, take place at Three O's Food Mart at 5 U.S.C. § 552 (b)(6) & (b)(7)(C). This transaction occurred 5 U.S.C. § 552 (b)(6) & (b)(7)(C) after the first transaction in Exhibit E. Agency records further show that in the first transaction (for 5 U.S.C. § 552 (b)(6) & (b)(7)(C)), the card was successfully swiped in the store's point-of-sale terminal. For the 5 U.S.C. § 552 (b)(6) & (b)(7)(C) transaction, the record shows that the EBT card number was manually entered by store personnel. A manual entry generally means that either the card did not properly swipe and the numbers had to be entered manually into the POS device/cash register system or that the card was not present at the time the store conducted the transaction.

It is the finding of this review that FNS provided sufficient information for the Appellant to review its records and come up with evidence regarding the transaction in question. FNS supplied the amount of the transaction as well as the date and time it occurred. With that information available to the Appellant, it is reasonable to presume that a cash register receipt from that time period could have been located or reproduced. Such a receipt – particularly an itemized receipt – could have been very useful in proving what transpired at the point of sale.

As the Appellant has indicated, the investigator in this case produced a written explanation or affidavit regarding the alleged trafficking incident. In its affidavit, the investigator explained 5 U.S.C. § 552 (b)(6) & (b)(7)(C). This implies that neither the investigator nor the confidential informant could have conducted the transaction in question.

After reviewing the Appellant's February 13, 2020 reply to the charge letter, it appears that the Retailer Operations Division reached out to the investigator for additional clarification regarding the circumstances listed in Exhibit E of the investigation report. In response, the Retailer

Operations Division received a written explanation from the confidential informant. This additional affidavit, dated June 10, 2020, states 5 U.S.C. § 552 (b)(6) & (b)(7)(C)

5 U.S.C. § 552 (b)(6) & (b)(7)(C)

The confidential informant's affidavit appears to corroborate the information listed in the investigation report as well as the earlier affidavit from the investigator. Based on these narratives, it is difficult for this review to conceive of any way that either of them could have conducted the second transaction when they were apparently nowhere near the store at the time it occurred. Further, this review fails to find any motivation for either the investigator or the confidential informant to fabricate a tale of trafficking. As noted in the investigation report, the firm had already been found to have committed sufficient program violations (i.e. the sale of ineligible non-food items) for a likely sanction of the store. The nature of the subsequent 5 U.S.C. § 552 (b)(6) & (b)(7)(C) transaction is such that it is unlikely to have occurred in any other manner than what the investigator and confidential informant have described: an unauthorized transaction conducted by the firm without the EBT card being present.

It is not unheard of for a store clerk to observe a customer entering his or her PIN during a SNAP transaction. Additionally, while transaction receipts generally show only the last four digits of a card, it is possible that the Appellant's cash register system captured the full EBT card number when it was swiped at the time of the first purchase. How exactly the store conducted the 5 U.S.C. § 552 (b)(6) & (b)(7)(C) transaction is not clear. But as indicated earlier, in an administrative review the onus is on the Appellant to provide sufficient evidence to persuade the review officer that trafficking did not occur. Unfortunately, the Appellant has not met this standard.

The agency's record clearly shows that a manually-entered transaction for 5 U.S.C. § 552 (b)(6) & (b)(7)(C) occurred at the Appellant store and occurred at the date and time indicated in the investigation report. Written statements by both the investigator and the confidential informant are consistent and strongly suggest that neither one was near the premises of Three O's Food Mart at the time of the transaction. This evidence further suggests that the transaction occurred without the knowledge of either the investigator or the confidential informant, and thus, amounts to stealing or trafficking SNAP benefits. Accordingly, this review finds that the preponderance of the evidence favors the Retailer Operations Division and that permanent disqualification is the appropriate sanction.

Consideration of 7 CFR § 278.6(d)

SNAP regulations at 7 CFR § 278.6(d) state the following:

(d) Basis for determination. The FNS regional office making a disqualification or penalty determination shall consider:

- (1) The nature and scope of the violations committed by personnel of the firm,
- (2) Any prior action taken by FNS to warn the firm about the possibility that violations are occurring, and
- (3) Any other evidence that shows the firm's intent to violate the regulations.

The Appellant, through counsel, adamantly denies any intentional violation of SNAP regulations. It further claims to have a strict compliance policy and has never been previously accused of violations. The Appellant states that FNS appears to have not considered the firm's history of program compliance when it determined a sanction, as required by 7 CFR § 278.6(d).

With regard to these contentions, this review finds that FNS appropriately considered 7 CFR § 278.6(d) before reaching a disqualification determination. The case record indicates that the Retailer Operations Division evaluated the firm's history with SNAP compliance (no prior violations were found) and determined that due to the seriousness of the allegations, a warning letter was not appropriate.

As to the element of intent, this review acknowledges that a conclusion regarding one's intent is difficult to draw from an investigator's report. However, the preponderance of evidence in this case leans in the agency's favor. On three consecutive occasions, store clerks allowed ineligible items to be purchased with SNAP benefits, as noted in Exhibits C, D, and E. Then, on **5 U.S.C. § 552 (b)(6) & (b)(7)(C)**, after the confidential informant had left the store, the firm appears to have conducted a subsequent transaction without the investigator's or confidential informant's approval or knowledge. From this review's perspective, these incidents speak to intent, which appears to be a willingness to commit program violations.

It is the finding of this review that the permanent disqualification imposed by the Retailer Operations Division for this first-time violation conforms to SNAP regulations and is consistent with sanctions imposed upon other retailers that have committed similar violations.

Trafficking Civil Money Penalty

The Retailer Operations Division determined that the Appellant firm was not eligible for a civil money penalty in lieu of permanent disqualification for trafficking because it did not submit sufficient evidence to demonstrate that it had established and implemented an effective compliance policy and program to prevent SNAP violations.

In accordance with regulations at 7 CFR § 278.6(b)(2), in order for a CMP to be considered, a firm must not only notify FNS that it desires the agency to consider a trafficking CMP in lieu of permanent disqualification, but it must also submit appropriate supporting documentation within 10 days of receipt of the charge letter. The case record shows that the Appellant requested an extension of time to respond to the charge letter and in doing so, acknowledged that it was forfeiting its right to a CMP in lieu of permanent disqualification.

Therefore, in accordance with 7 CFR § 278.6(b)(2)(iii) and § 278.6(i), a civil money penalty in lieu of permanent disqualification for trafficking is not an option in this case.

CONCLUSION

Trafficking is defined in Section 271.2 of the SNAP regulations as the buying, selling, stealing, or otherwise effecting an exchange of SNAP benefits for cash or consideration other than eligible

food. Pursuant to regulations at 7 CFR § 278.6(e)(1)(i), permanent disqualification is the required penalty for such a violation. Neither statute nor regulations provide for a lesser penalty.

Based on a review of all available information in this case, this review finds through a preponderance of the evidence that a trafficking violation likely occurred at Three O's Food Mart during the commission of a USDA investigation. All investigative passes cited in the letter of charges were either conducted or supervised by a USDA investigator and all are thoroughly documented. A review of this documentation has yielded no indication of error or discrepancy in any of the reported findings. Rather, the investigative record appears to be specific and accurate with regard to the date and circumstances of the trafficking violation and in all other critically pertinent details. Therefore, pursuant to 7 CFR § 278.6(a) and (e)(1), the decision to impose a permanent disqualification against the Appellant, Three O's Food Mart, under the ownership of 5 U.S.C. § 552 (b)(6) & (b)(7)(C), is sustained.

RIGHTS AND REMEDIES

Applicable rights to a judicial review of this decision are set forth in Section 14 of the Food and Nutrition Act of 2008 (7 U.S.C. § 2023) and in Section 279.7 of the SNAP regulations. 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 owner resides or is engaged in business, or in any court of record of the State having competent jurisdiction. If a complaint is filed, it must be filed within 30 days of receipt of this decision. The judicial filing timeframe is mandated by the Act, and this office cannot grant an extension.

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.

JON YORGASON
Administrative Review Officer

October 7, 2020