

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS  
STATE OF GEORGIA**

<b>DHS, OFFICE OF THE INSPECTOR GENERAL,</b>	:	
	:	
<b>Petitioner,</b>	:	<b>Docket No.:</b>
<b>v.</b>	:	<b>OSAH-OIS-TF-[REDACTED]-Miller</b>
	:	
<b>[REDACTED],</b>	:	<b>Agency Reference No.:</b> <b>[REDACTED]</b>
<b>Head of Household,</b>	:	
<b>and</b>	:	
	:	
<b>[REDACTED],</b>	:	
<b>Respondent.</b>	:	

**FINAL DECISION**

**I. Introduction**

The Georgia Department of Human Services (“Department”), Petitioner herein, proposes to administratively disqualify the Respondent/Head of Household from participation in the Temporary Assistance for Needy Families (“TANF”) program based on an alleged intentional program violation. The evidentiary hearing took place on April 22, 2014. Agent Anne Madison of the Department’s Office of the Inspector General appeared as the Department’s representative. The Respondent/Head of Household, [REDACTED] (“Respondent”), did not appear at the hearing.

After consideration of the evidence and for the reasons set forth below, the Department’s request for administrative disqualification of the Respondent is **DENIED**.

**II. Findings of Fact**

1.

The Respondent was a recipient of TANF benefits between September 2008 and March 2013. On October 24, 2012, the Respondent completed a TANF family service plan wherein she agreed to “[u]se TANF cash assistance funds or TANF EBT card to make responsible purchases as explained by my case manager.” The Respondent also indicated by her signature on the family service plan that:

I understand that it is strictly prohibited to use the cash assistance funds or TANF EBT card to withdraw cash or perform transactions at casinos, poker rooms, adult entertainment business, bail bonds, night clubs/salons/taverns, bingo halls, race tracks, gun/ammunition stores, cruise ships, psychic readers, smoking shops, tattoo/piercing shops, and spa/massage salons is strictly prohibited [sic]. The use

of cash assistance or the TANF EBT transactions performed at these businesses will constitute an intentional program violation-fraud on the part of the benefit recipient.

(Testimony of Anne Madison; Exhibits P-4, P-8.)

2.

On March 1, 2013, the Respondent used her EBT card in a \$40.00 transaction at Perry's Liquor #2 in Athens, Georgia. (Testimony of Ms. Madison; Exhibits P-3, P-9.)

3.

The Department proposes to disqualify the Respondent from participation in the TANF program for a period of six months,<sup>1</sup> based on her use of her EBT card at Perry's Liquor #2. The Respondent has no previous intentional program violations. (Testimony of Ms. Madison.)

### **III. Conclusions of Law**

1.

The issue presented for consideration in this proceeding is whether the Respondent committed an intentional violation of TANF program rules. This issue must be resolved in accordance with applicable provisions of the United States Code (42 U.S.C. §§ 601-619), the Code of Federal Regulations (45 C.F.R. pts. 201-287), and the Economic Support Services Manual of the Georgia Department of Human Services at 3390 ("TANF Manual"). The Department bears the burden of proof by a preponderance of the evidence. Ga. Comp. R. & Regs. 616-1-2-.07(1)(d), .21(4).

2.

An intentional program violation results when a TANF recipient has engaged in "an *intentional* action by an individual to establish or maintain an assistance unit's (AU's) eligibility, or to increase or prevent a decrease in the AU's benefits, by providing false or misleading information or withholding information." TANF Manual § 1385-1.

3.

Federal law mandates that states participating in the TANF program "shall maintain policies and practices as necessary to prevent assistance . . . from being used in any electronic benefit transfer transaction in (i) any liquor store; (ii) any casino, gambling casino, or gaming establishment; or (iii) any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment." 42 U.S.C. § 608(A)(12)(a).

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<sup>1</sup> At this time, however, the Respondent's TANF case has been closed because she has already received the maximum lifetime TANF benefit and has not qualified for an exception to the limit. (Testimony of Ms. Madison; Exhibit P-8.)

4.

Consequently, the Department has adopted a policy that states:

It is strictly prohibited to use the cash assistance funds or TANF EBT card to withdraw cash or perform transactions at liquor stores, casinos, poker rooms, adult entertainment business, bail bonds, night clubs/salons/taverns, bingo halls, race tracks, gun/ammunition stores, cruise ships, psychic readers, smoking shops, tattoo/piercing shops, and spa/massage salons.

TANF Manual § 1920-2. The Manual further provides that a recipient's use of cash assistance or TANF EBT card as described above "will constitute an intentional program violation-fraud on the part of the benefit recipient." Id.

5.

In this case, the Department did not meet its burden. Although the TANF Manual clearly prohibits the use of an EBT card at a liquor store, the record contains no evidence that the Respondent was on notice of the prohibition. More specifically, the Respondent's family service plan did not include "liquor store" among the establishments at which she was not authorized to use her EBT card, and the record contains no evidence that she was otherwise informed of this directive. Therefore, while the evidence showed that the Respondent failed to comply with a program requirement, the Court is unable to conclude that her failure was intentional.

#### **IV. Decision**

In accordance with the foregoing Findings of Fact and Conclusions of Law, the Department's request for administrative disqualification of the Respondent from participation in the TANF program is **DENIED**.

**SO ORDERED, this 29th day of April, 2014.**

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**KRISTIN L. MILLER**  
**Administrative Law Judge**