

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

██████████  
Petitioner,

v.

**DEPARTMENT OF HUMAN SERVICES,  
DIVISION OF FAMILY &  
CHILDREN SERVICES**  
Respondent.

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Docket No.:  
OSAH-DFCS-FSP-██████████-33-Woodard

Agency Reference No.: ██████████



FILED  
OSAH

JAN 22 2015

*Jenna Judy*  
Jenna Judy, Legal Assistant

**INITIAL DECISION**

**I. Introduction**

Petitioner ██████████ appeals the decision of Respondent Department of Human Services (“DHS”), Division of Family and Children Services (“DFCS”), to remove (or “expunge”) a balance of food stamp benefits from his Electronic Benefits Transfer (“EBT”) account after twelve months of inactivity. An evidentiary hearing was held before the undersigned Administrative Law Judge at the Marietta Municipal Court in Marietta, Georgia on December 15, 2014. Petitioner appeared and represented himself. Ms. Saint Simpson, Field Operations Hearing Unit, Cobb County DFCS, represented Respondent. For the reasons stated herein, Respondent’s decision is **AFFIRMED**.

**II. Findings of Fact**

1.

Petitioner has participated in the Supplemental Nutrition Assistance Program (“SNAP”) (more commonly known as the “Food Stamp Program”) since April 2010. He currently receives food stamp benefits for an assistance unit (“AU”) of one. (Exhibit P-1, R-1; Testimony of ██████████; Testimony of Saint Simpson).

2.

Food stamp recipients are issued benefits in the form of transfers to an EBT account. Recipients may thereafter apply these benefits to purchase food items using an EBT card. (Exhibits P-1, R-1).

3.

Petitioner ceased using his food stamp benefits after making a purchase on September 5, 2013 in the amount of \$51.45. He did not access his food stamp benefits for twelve months thereafter, and his EBT account remained inactive during that time. (Exhibits P-1, R-1; Testimony of [REDACTED]).

4.

On September 6, 2014, twelve months after Petitioner had last used his food stamp benefits, DFCS expunged \$2,518.64 from Petitioner's EBT account. This amount represented Petitioner's EBT account balance after he made his last purchase on September 5, 2013. Prior to the expungement, Petitioner's EBT account had a balance of \$2,869.64 in food stamp benefits. (Exhibit R-1; Testimony of Saint Simpson).

5.

Petitioner made no purchases from his EBT account in September, October, or November, 2014. Therefore, DFCS expunged the amounts of Petitioner's September 2013 (\$52.00), October 2013 (\$53.00), and November 2013 (\$42.00) food stamp allotments from his EBT account after twelve months of inactivity. As of December 13, 2014, Petitioner's EBT account balance is \$264.67. (Exhibits P-1, R-1; Testimony of [REDACTED]; Testimony of Saint Simpson).

6.

Petitioner requested a hearing on October 20, 2014, whereupon the matter was referred to the Office of State Administrative Hearings for adjudication.

7.

At the hearing on this matter, Petitioner acknowledged that his EBT account had remained inactive for a period exceeding twelve months. However, he argued that, pursuant to DFCS policy, DFCS was authorized to expunge only the allotments that he had not accessed after twelve months. In other words, Petitioner argued that DFCS was not entitled to the EBT account's balance at the time the period of inactivity began, but only the September 2013 allotment and thereafter each allotment that had sustained twelve months of inactivity. Petitioner further contended that DFCS was required to notify him in writing prior to expunging his EBT account. (Testimony of [REDACTED]).

### III. Conclusions of Law

Based on the above findings of fact, the undersigned makes the following conclusions of law:

1.

The Food Stamp Program is governed by the Food and Nutrition Act of 2008, 7 U.S.C. § 2011 *et seq.*; 7 C.F.R. § 271.1, *et seq.* DFCS is a division of DHS, the State Agency responsible for administration of the Food Stamp Program. O.C.G.A. § 49-4-16(b) (2014). It has prescribed policy for administering the Food Stamp Program pursuant to State and Federal law in its ECONOMIC SUPPORT SERVICES MANUAL, VOLUME III (hereinafter "FOOD STAMP MANUAL").

2.

According to Federal regulations governing the Food Stamp Program, state agencies "shall expunge benefits that have not been accessed by the household after a period of one year." 7 C.F.R. § 274.2(h)(2) (2014) (emphasis added).<sup>1</sup> Pursuant to the Food Stamp Manual:

Expungement is the removal of a credit balance from the EBT account. This process occurs when benefits no longer belong to the account holder. After twelve months of inactivity benefits are expunged from the account one month at a time, first in first out as each month ages to 365 days.

FOOD STAMP MANUAL § 3805-3.

3.

In the present case, Petitioner did not access his EBT account for more than twelve months. At the time the twelve month period of inactivity commenced, Petitioner's account had a balance of \$2,518.64. Therefore, on September 6, 2014, after twelve months had passed since Petitioner had accessed the \$2,518.64 balance, DFCS was mandated to expunge those benefits pursuant to federal law. 7 C.F.R. § 274.2(h)(2) (2014). Further, DFCS was required to expunge the September, October, and November 2013 allotments after they "aged" to 365 days. FOOD STAMP MANUAL § 3805-3.

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<sup>1</sup> Food stamp benefits accounts that are not accessed for three months or longer are "stale." 7 C.F.R. § 274.2(h)(1) (2014). At their option, state agencies may store food stamp benefits stored in such accounts "offline" after notifying the account-holder. *Id.* Account-holders may restore their benefits by contacting the state agency. *Id.* However, account-holders have no such option where the benefits have remained inactive for more than twelve months, in which case the state agency is required to expunge the stale benefits. *See id.* § 274.2(h)(2). Although the pertinent regulation expressly requires notice to the account-holder where the state agency *stores* a stale account, there is no such provision where the state agency *expunges* a stale account. *See id.*

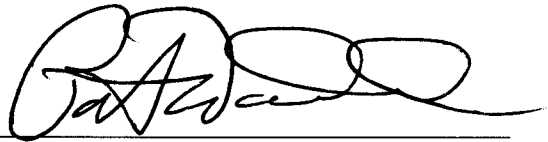
4.

There is no express requirement in either the federal regulations or the Food Stamp Manual that DFCS provide recipients with written notice before expunging stale accounts. See 7 C.F.R. 274.2(h)(2) (2014); FOOD STAMP MANUAL § 3705. Accordingly, DFCS was under no obligation to notify Petitioner before taking the action at issue.

**IV. Decision**

In accordance with the foregoing Findings of Fact and Conclusions of Law, it is the Initial Decision of the undersigned that DFCS's action is **AFFIRMED**.

**SO ORDERED** this 14 day of January, 2015.

A handwritten signature in black ink, appearing to read "M. Patrick Woodard", written over a horizontal line.

**M. PATRICK WOODARD**  
**Administrative Law Judge**