

**Sullivan, Cynthia (DTA)**

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**From:** Fuoco, Irene [Irene.Fuoco@FNS.USDA.gov]  
**Sent:** Monday, November 08, 2010 9:33 AM  
**To:** Sullivan, Cynthia (DTA)  
**Cc:** Conti, Peter  
**Subject:** RE: MA retailer redemption information

Cyndi,

Generally, Inquiries for redemption data should be directed to me, Director of Field Operations, NERO or to Peter Conti, Assistant Director of Field Operations. This would include public citizen requests, student requests, other state local or federal agency requests, etc.

Should DTA receive a request from the media or the office of an elected official, the request should be directed to our office of Public Affairs. Ken Sierra is our PA Director- 617 565 6418.

As regards to release of info to MA Dept of Ag, you are correct. You can't release individual retailer redemptions, nor can we. We do appreciate how important the relationship ( both DTA & FNS ) is with the AG people and how much that has improved the participation of SNAP recipients. When we've gotten similar requests from our NY Dept of Ag & Market we've worked with our headquarters so that the agency could provide some aggregate data . Should you get an inquiry from MA AG & Markets , please contact me.

Thank you,

Irene Fuoco  
617 565 6371

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**From:** Sullivan, Cynthia (DTA) [mailto:Cynthia.Sullivan@state.ma.us]  
**Sent:** Friday, November 05, 2010 10:52 AM  
**To:** Fuoco, Irene  
**Cc:** Wholley, Diane (DTA)  
**Subject:** MA retailer redemption information

Good Morning Irene,

I do have a follow-up question. Each month I have been forwarding the latest MA farmers market redemptions to David Webber and Lisa Damon at the Massachusetts Department of Agricultural Resources (DAR). DTA has worked with DAR closely over the past year to promote EBT at farmers markets and in fact DTA provided DAR with \$50,000 to subsidize wireless POS terminal purchases / leases and for Farmers Market outreach / incentives. Farmers market redemptions for 2009 totaled \$20,647.55. Thanks to the efforts of DAR, 2010 redemptions to date total \$64,041.56, more than triple 2009.

11/15/2010

DAR is not an investigative or law enforcement agency. Based on your instructions and the regulations, we should no longer release this information to DAR. Is that correct?

Also to whom at FNS should outside inquiries for redemption data be referred in the future?

Thanks so much.

Cyndi Sullivan, Deputy Director  
Financial Program Management  
Department of Transitional Assistance  
600 Washington Street  
Boston, MA 0211

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**From:** Fuoco, Irene [mailto:Irene.Fuoco@FNS.USDA.gov]  
**Sent:** Friday, October 29, 2010 11:10 AM  
**To:** Sullivan, Cynthia (DTA)  
**Cc:** Ferris, MaryAnn; Fuoco, Irene  
**Subject:** MA retailer redemption information released by SA  
**Importance:** High

Cyndi,

Per our conversation, see link to website where Massachusetts SNAP retailer redemptions have been posted. DTA should not release information on MA retailers. See also wording from the statute and federal regulations. You can refer inquiries to me.

We are consulting with our General Counsel as to next steps , if any. Call me anytime. My temporary # for next 2 weeks is 617 565 7110. After that I'll be at my usual # 617 565 6371.

Irene Fuoco  
Director of Field Operations  
NERO

<http://www.muckrock.com/foi/view/massachusetts/snap-food-stamp-reimbursements-for-fy-2006-fy-2009/133/>

From other parts of the website:

### Where Massachusetts Food Stamp Money is Going

Ever wonder how food stamp money is actually being spent? Curious as to how hard the "great recession" has hit your community? In this exclusive MuckRock data set, we present over four years of government reimbursement data, including exact reimbursement amounts and exact addresses of where the money is being spent. The data were obtained via a Freedom of Information Request by the Massachusetts' Department of Transitional Assistance, which oversees the state-level administration of this federal program.

11/15/2010

## Food Stamp Reimbursements for January - May 2010

[[Requested Mailed To Amy West, amy.west@state.ma.us, referred to her by Cindy with Department of Transitional Assistance (DTA)]] Hi Amy, Thanks so much for your time on the phone. I'm requesting documentation about how much each grocery store is reimbursed in the state of MA from its food stamp programs. I'm interested in looking at data from the last 12 available months, preferably in a digital format. However the data is formatted (by individual store, chain, etc.) is fine. Thanks! Michael

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Cyndi,

See Act and regulation citations below.

- ----- The Food and Nutrition Act at 7 U.S.C. 2018 (9)(c) and Title 7 Part 278 of the federal regulations at 278.1 (q) are specific with regard to information sharing.
- Individual retailer Supplemental Nutrition Assistance Program (SNAP) redemptions are protected.

### **FOOD AND NUTRITION ACT:**

APPROVAL OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS

SEC. 9. 7 U.S.C. 2018 (c)

Regulations issued pursuant to this Act shall require an applicant retail food store or wholesale food concern to submit information, which may include relevant income and sales tax filing documents, which will permit a determination to be made as to whether such applicant qualifies, or continues to qualify, for approval under the provisions of this Act or the regulations issued pursuant to this Act. The regulations may require retail food stores and wholesale food concerns to provide written authorization for the Secretary to verify all relevant tax filings with appropriate agencies and to obtain corroborating documentation from other sources so that the accuracy of information provided by the stores and concerns may be verified. Regulations issued pursuant to this Act shall provide for safeguards which limit the use or disclosure of information obtained under the authority granted by this subsection to purposes directly connected with administration and enforcement of the provisions of this Act or the regulations issued pursuant to this Act, except that such information may be disclosed to any used by Federal law enforcement and investigative agencies and law enforcement and investigative agencies of a State government for the purposes of administering or enforcing this Act or any other Federal or State law and the regulations issued under this Act or such law, and State agencies that administer the special supplemental nutrition program for women, infants and children, authorized under section 17 of the Child Nutrition Act of 1966, for purposes of administering the provisions of that Act and the regulations issued under that Act. Any person who publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by Federal law (including a regulation) any information obtained under this subsection shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both. The regulations shall establish the criteria to be used by the Secretary to determine whether the information is needed. The regulations shall not prohibit the audit and examination of such information by the Comptroller General of the United States authorized by any other provision of law.

(d) Any retail food store or wholesale food concern

11/15/2010

## Code of Federal Regulations:

### Title 7: Agriculture

PART 278—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND INSURED FINANCIAL INSTITUTIONS

#### § 278.1 Approval of retail food stores and wholesale food concerns.

(q) *Use and disclosure of information provided by firms.* With the exception of EINs and SSNs, any information collected from retail food stores and wholesale food concerns, such as ownership information and sales and redemption data, may be disclosed for purposes directly connected with the administration and enforcement of the Food Stamp Act and these regulations, and can be disclosed to and used by State agencies that administer the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). Such information may also be disclosed to and used by Federal and State law enforcement and investigative agencies for the purpose of administering or enforcing other Federal or State law, and the regulations issued under such other law. Such disclosure and use shall also include companies or individuals under contract for the operation by, or on behalf of FNS to accomplish an FNS function. Such purposes include the audit and examination of such information by the Comptroller General of the United States authorized by any other provision of law. Any person who publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by Federal law or regulations any information obtained under this paragraph shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both. Safeguards with respect to employee identification numbers (EINs) are contained in paragraph (q)(2) of this section. Safeguards with respect to Social Security numbers (SSNs) are contained in paragraph (q)(3) of this section.

(1) *Criteria for requesting information.* FNS shall determine what information can be disclosed and which government agencies have access to that information based on the following criteria:

(i) Federal and State law enforcement or investigative agencies or instrumentalities administering or enforcing specified Federal and State laws, or regulations issued under those laws, have access to certain information maintained by FNS. Such agencies or instrumentalities must have among their responsibilities the enforcement of law or the investigation of suspected violations of law. However, only certain Federal entities have access to information involving SSNs and EINs in accordance with paragraph (q)(1)(ii) of this section;

(ii) Except for SSNs and EINs, information provided to FNS by applicants and authorized firms participating in the FSP may be disclosed and used by qualifying Federal and State entities in accordance with paragraph (q)(1)(i) of this section. The disclosure of SSNs and EINs is limited only to qualifying Federal agencies or instrumentalities which otherwise have access to SSNs and EINs based on law and routine use. Release of information under this paragraph shall be limited to information relevant to the administration or enforcement of the specified laws and regulations, as determined by FNS;

(iii) Requests for information must be submitted in writing, including electronic communication, and must clearly indicate the specific provision of law or regulations which would be administered or enforced by access to requested information, and the relevance of the information to those purposes. If a formal agreement exists between FNS and another agency or instrumentality, individual written requests may be unnecessary. FNS may request additional information if needed to clarify a request;

(iv) Disclosure by FNS is limited to: Information about applicant stores and concerns with applications on file; information about authorized stores participating in the FSP; and information about unauthorized entities or individuals illegally accepting or redeeming food stamps;

(v) Requests for information disclosure by FNS may involve a specific store or concern, or some or all stores and concerns covered by paragraph (q)(1)(iv) of this section. In addition, FNS may sign agreements allowing certain government entities direct access to appropriate FNS data, with access to EINs and SSNs limited only to other Federal agencies and instrumentalities that otherwise have access to such numbers.

(2) *Employer identification numbers.* (i) The Department may have access to the EINs obtained pursuant to paragraph (b)(5) of this section for the purpose of establishing and maintaining a list of the names and EINs of the stores and concerns for use in determining those applicants who previously have been sanctioned or convicted under sections 12 and 15 of the Food Stamp Act of 1977, as amended, (7 U.S.C. 2021 or 2024). The Department also may share EINs with other Federal agencies and instrumentalities that otherwise have access to EINs if the Department determines that such sharing would assist in verifying and matching such information against information maintained by such other agency or instrumentality. Any such information

shared pursuant to this paragraph may be used by the Department or such other agency or instrumentality for the purpose of effective administration and enforcement of the Food Stamp Act of 1977, as amended, or for the purpose of investigating violations of other Federal laws or enforcing such laws. See Treas. Reg. §301.6109–2 (b) and (c) (26 CFR 301.6109–2 (b) and (c)).

(ii) The only persons permitted access to EINs obtained pursuant to paragraph (b) of this section are officers and employees of the United States, who otherwise have access and whose duties or responsibilities require access to the EINs for the administration or enforcement of the Food Stamp Act of 1977, as amended, or for the purpose of investigating violations of other Federal laws or enforcing such laws. See Treas. Reg. §301.6109–2(d)(1) (26 CFR 301.6109–2(d)(1)).

(iii) The Department or any agency or instrumentality of the United States shall provide for any additional safeguards that the Secretary of the Treasury determines to be necessary or appropriate to protect the confidentiality of the EINs. The Department may also provide for any additional safeguards to protect the confidentiality of EINs so long as these safeguards are consistent with any safeguards determined by the Secretary of the Treasury to be necessary or appropriate. See Treas. Reg. §301.6109–2(d)(2) (26 CFR 301.6109–2(d)(2)).

(iv) EINs maintained by the Department or maintained by any agency or instrumentality of the United States pursuant to §278.1(b)(5) are confidential. Except as provided in paragraph (q)(2)(ii) of this section above, no officer or employee of the United States who has or had access to any such EIN may disclose that number in any manner. For purposes of paragraph (q)(2)(iv) of this section the term *officer or employee* includes a former officer or employee. See Treas. Reg. §301.6109–2(e) (26 CFR 301.6109(e)).

(v) Sections 7213(a) (1), (2) and (3) of the Internal Revenue Code of 1986 apply with respect to the unauthorized, willful disclosure to any person of EINs obtained by the Department pursuant to §278.1(b)(5) in the same manner and to the same extent as sections 7213(a) (1), (2) and (3) apply with respect to unauthorized disclosure of returns and return information described in those sections. Section 7213(a)(4) of the Internal Revenue Code of 1986 applies with respect to the willful offer of any item of material value in exchange for any EIN obtained by the Department pursuant to §278.1(b)(5) in the same manner and to the same extent as section 7213(a)(4) applies with respect to offers (in exchange for any return or return information) described in that section. See Treas. Reg. §301.6109–2(f) (26 CFR 301.6109–2(f)).

(3) *Social Security numbers.* (i) The Department may have access to SSNs obtained pursuant to paragraph (b)(5) of this section for the purpose of establishing and maintaining a list of names and SSNs of stores and concerns for use in determining those applicants who previously have been sanctioned or convicted under section 12 or 15 of the Food Stamp Act of 1977, as amended, (7 U.S.C. 2021 or 2024). The Department may use this determination of sanctions and convictions in administering sections 12 and 15 of the Food Stamp Act of 1977, as amended, (7 U.S.C. 2018, 2021). The Department also may share SSNs with other Federal agencies and instrumentalities if the Department determines that such sharing would assist in verifying and matching such information against information maintained by the Department or such other agency or instrumentality. Any such information shared pursuant to this paragraph shall be used for the purpose of effective administration and enforcement of the Food Stamp Act of 1977, as amended, or for the purpose of investigating violations of other Federal laws or enforcing such laws.

(ii) The only persons permitted access to SSNs obtained pursuant to paragraph (b) of this section are officers and employees of the United States, who otherwise have access, and whose duties or responsibilities require access to the SSNs for the administration or enforcement of the Food Stamp Act of 1977, as amended, or for the purpose of investigating violations of other Federal laws or enforcing such laws. Such access shall also include companies or individuals under contract for the operation by, or on behalf of FNS to accomplish an FNS function.

(iii) The Department shall provide for all additional safeguards that the Commissioner of the Social Security Administration determines to be necessary or appropriate to protect the confidentiality of the SSNs. The Department may also provide for any additional safeguards to protect the confidentiality of SSNs so long as these safeguards are consistent with any safeguards determined by the Commissioner of the Social Security Administration to be necessary or appropriate.

(iv) The SSNs and related records that are obtained or maintained by authorized persons are confidential, and no officer or employee shall disclose any such SSN or related record except as authorized. The term “related record” means any record, list, or compilation that indicates, directly or indirectly, the identity of any individual with respect to whom a request for a SSN is maintained. For purposes of paragraph (r)(3)(iv) of this section the term “officer or employee” includes a former officer or employee.

(v) The sanctions under sections 7213(a) (1), (2) and (3) of the Internal Revenue Code of 1986 will apply with respect to the unauthorized, willful disclosure to any person of SSNs and related records obtained or maintained in the same manner and to the same extent as sections 7213(a) (1), (2) and (3) apply with respect to unauthorized disclosures of returns and return information described in those sections. The sanction under section 7213(a)(4) of the Internal Revenue Code of 1986 will apply with respect to the willful offer of any item of material value in exchange for any SSN or related record in the same manner and to the same extent as section 7213(a)(4) applies with respect to offers (in exchange for any return or return

information) described in that section.

**Christensen, Koren (DTA)**

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**From:** Fuoco, Irene [Irene.Fuoco@FNS.USDA.gov]  
**Sent:** Wednesday, November 10, 2010 10:00 AM  
**To:** Christensen, Koren (DTA)  
**Cc:** Sullivan, Cynthia (DTA); Conti, Peter; Fuoco, Irene  
**Subject:** RE: Listing of Massachusetts SNAP Retailers

Koren Christensen,

Please cease all communication with the website. I know you understand that this is a very sensitive issue. Please don't take any action until USDA-OIG determines the appropriate course of action(s) to be taken and determines the appropriate party to initiate action.

Your email mentions release of SNAP retailer data to a newspaper. Can you provide name of paper and the date of release?

Please direct the Boston Herald to FNS, Ken Sierra, Director of Public Affairs. Ken can be reached at 617 565 6418. FNS often receives requests for listings of authorized retailers in various states and localities. FNS is the only entity that can provide this information and even a fairly standard request such as this must be cleared through FNS Headquarters.

Thanks for asking,

Irene Fuoco  
Director of Field Operations  
FNS NERO

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**From:** Christensen, Koren (DTA) [mailto:Koren.Christensen@state.ma.us]  
**Sent:** Tuesday, November 09, 2010 4:20 PM  
**To:** Fuoco, Irene  
**Subject:** Listing of Massachusetts SNAP Retailers

Ms. Fuoco:

I was copied on an e-mail you sent regarding SNAP redemption data that the Department was erroneously shared with a newspaper and subsequently, to a website. I am in communication with the website about this issue.

Since then, we have received a second FOIA request regarding SNAP retailers from the Boston Herald. In part, they are requesting a list of SNAP-authorized retailers in Massachusetts. It is unclear to me from the regulation and statute whether this information on its own could be provided. Do you guys have a position on this?

Thank you for your assistance.

Koren Christensen  
General Counsel

11/15/2010