

STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS  
55 FARMINGTON AVENUE  
HARTFORD, CT 06105-3725

██████████ 2020  
Signature Confirmation

Request #146313

Client ID # ██████████

Case ID # ██████████

**ADMINISTRATIVE DISQUALIFICATION HEARING**  
**NOTICE OF DECISION**

**PARTY**

██████████  
██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

The Department of Social Services (the "Department" or "DSS") requested an Administrative Disqualification Hearing ("ADH") to seek the disqualification of ██████████ ██████████ (the "Defendant") from participating in the Supplemental Nutritional Assistance Program ("SNAP") for a period of one (1) year. The Department alleged that the Defendant committed an Intentional Program Violation ("IPV") in the SNAP program by failing to report his receipt of SNAP benefits in another state in order to receive duplicate benefits. The Department also asserted a claim to recover \$521.00 in SNAP that was overpaid to the Defendant as a result of the commission of the IPV. The Defendant has not had any prior IPV offenses in the SNAP program.

On ██████████, 2019, the Department requested that an ADH be scheduled, alleging the Defendant committed an IPV.

On ██████████ ██████████, 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") scheduled the ADH for ██████████, 2019. Due to the unavailability of the Department's investigator on that date, on ██████████ ██████████ 2019, OLCRAH rescheduled the hearing for ██████████ 2019. Notice was sent to the Defendant and his attorney via certified mail of the initiation of the ADH process. The notification outlined a Defendant's rights in these proceedings and

included the publication, *List of Legal Services in Connecticut*. The investigator sent the same information to the Defendant via first class mail.

The certified mail to the Defendant was returned to OLCRAH by the USPS as unclaimed.

The certified mail to the Defendant's attorney was delivered and OLCRAH received a signed receipt of delivery.

On [REDACTED], 2019, the Defendant's attorney at Connecticut Legal Services notified OLCRAH that he was withdrawing from his appointment as representative for the Defendant for the ADH.

On [REDACTED] 2019, in accordance with sections 17b-60, 17-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held an Administrative Disqualification Hearing.

The following individuals were present at the hearing:

Megan Monroe, Department's Investigator  
James Hinckley, Hearing Officer

The Defendant was not present at the hearing.

**Por favor vea la copia incluida de esta decisión en español**

### **STATEMENT OF THE ISSUE**

1. The first issue to be decided is whether the Defendant committed an IPV in the SNAP program and should be disqualified for committing the violation.
2. The second issue to be decided is whether the Department is authorized to establish an IPV claim to recover \$521.00 in overpaid SNAP benefits that resulted from the commission of the IPV.

### **FINDINGS OF FACT**

1. The Defendant is a Legal Permanent Resident of the U.S., originally from the Dominican Republic. His primary language is Spanish. (Hearing Record)
2. The Defendant was certified to receive SNAP benefits in the state of Virginia beginning [REDACTED] 2017. (Ex. 5: Paris Interstate Match Response)
3. On [REDACTED] 2018, the Defendant submitted a Spanish language application for SNAP to the Department. The Defendant did not name an authorized

representative on the application form. (Ex. 3: W-1ES General Application Form - Spanish)

4. In [REDACTED] 2018, the Defendant's SNAP was still active in Virginia. The Defendant was issued \$192.00 for [REDACTED] 2018. (Ex. 7: SNAP Payment History Data)
5. A question on the [REDACTED] 2018 application form asked whether the Defendant received food aid from any other state in the last 90 days. The Defendant crossed the question out, indicating that he had not received benefits from another state. (Ex. 3)
6. On [REDACTED] a worker for the Department interviewed the Defendant in person and he reported to the worker that he did not receive out of state benefits in the last 90 days. (Ex. 11: Case Notes)
7. On or about [REDACTED], the Defendant's SNAP application in Connecticut was granted. The Department issued him \$346.00 for the period from [REDACTED] 2018 to [REDACTED], 2018. (Ex. 11, Ex. 9: Benefit Issuance Search screen)
8. If the Defendant had reported on his application and during his interview that he was receiving out-of-state benefits, the Department would not have granted SNAP until it first confirmed that the Defendant's Virginia benefits had ended. (Ms. Monroe's testimony)
9. Virginia issued the Defendant a \$192.00 SNAP allotment for [REDACTED], and a \$192.00 allotment for [REDACTED]. (Ex. 7)
10. The Department issued the Defendant a \$175.00 SNAP Allotment for [REDACTED] 2018. (Ex. 9)
11. The Defendant's SNAP case in Virginia was closed effective [REDACTED], 2018. (Ex. 6: Email communications, Ex. 7)
12. During the overlapping period when the Defendant received SNAP benefits from two states, both the Virginia and Connecticut benefits were used. (Ex. 8: EBT Transaction History, Ex. 10: Transaction Detailed Report)
13. The Defendant's Connecticut SNAP benefits were accessed through EBT transactions in Connecticut on [REDACTED], 2018, [REDACTED], 2018 and [REDACTED], 2018. (Ex. 10)
14. The Defendant's Virginia SNAP benefits were accessed through EBT transactions in Virginia on [REDACTED], 2018, [REDACTED], 2018,

██████████, 2018, ██████████, 2018, ██████████, 2018 and ██████████  
 ██████████, 2018. (Ex. 8)

15. After the Defendant's SNAP was granted in Connecticut his Virginia benefits continued to be used in Virginia, with thirty EBT transactions in Virginia subsequent to his grant in Connecticut. (Ex. 8)
16. The Defendant's Connecticut and Virginia SNAP benefits had to have been accessed by two different individuals. (Facts #12, #13 and #14)
17. The Department received a PARIS (Public Assistance Reporting Information System) Match indicating the Defendant was receiving SNAP benefits in Virginia at the same time as Connecticut (Hearing Record)
18. On ██████████, a fraud investigator in Virginia, in response to the Department's request, confirmed the Defendant's duplicate receipt of SNAP in Virginia. The investigator incorrectly reported to the Department that the Defendant's Virginia SNAP closed ██████████. (Ex. 5: Response to Paris Interstate Match History Request, Ms. Monroe's testimony)
19. On ██████████, 2019, an investigator for the Department sent a notice to the Defendant in Spanish. The notice informed the Defendant that the Department believed he broke the rules of the SNAP program by not reporting his receipt of benefits in another state, and simultaneous receipt of benefits in two states. It alleged that the Defendant was overpaid \$696.00 in SNAP. An appointment was scheduled for ██████████ 2019, for the Defendant to discuss the matter with the Department. A waiver form was sent providing the Defendant the option to waive his right to an ADH and admit to the facts alleged by the Department and agree to repay the overpaid benefits. (Ex. 12: W-1448-S Notice of Prehearing Interview, Ex. 13: W-1449-S Waiver of Disqualification Hearing, Ms. Monroe's testimony)
20. On ██████████, 2019, an attorney from Connecticut Legal Services (the Defendant's "Attorney" at the time) contacted the investigator by email. He reported that the Defendant received the Department's ██████████ 2019 communication. He reported that he would be assisting the Defendant on the issue and provided the Department with a release form signed by the Defendant. He requested more information from the investigator about the concurrent use of benefits in two states. (Ex. 18: emails)
21. On ██████████ the Attorney notified the investigator that the Defendant did not plan on attending the ██████████ 2019 pre-hearing interview or waiving his right to a hearing, and that he wanted to proceed with the ADH. (Ex. 18)
22. Subsequent communications between the Virginia fraud investigator and the Department's investigator, supported by documentation, showed that the

correct closure date of the Defendant's case in Virginia was [REDACTED], [REDACTED], not [REDACTED], [REDACTED], as previously reported. (Hearing Record)

23. On [REDACTED], 2019, the Department sent a new notification to the Defendant of the IPV violations it alleged, and scheduled a new pre-hearing interview for [REDACTED] 2019. The Defendant had to be sent a revised notice because the claimed overpayment was reduced to \$521.00 after the Department learned the Virginia SNAP ended one month earlier than it originally believed. (Ex. 15: Second W-1448-S Notice of Prehearing Interview, Ex. 16: Second W-1449-S Waiver of Disqualification Hearing, Ms. Monroe's testimony)
24. On [REDACTED], 2019, the Defendant's Attorney notified the investigator that the Defendant did not plan on attending the [REDACTED] 2019 pre-hearing interview, and that he still wanted to proceed with the ADH. (Ex. 18)
25. On [REDACTED], 2019, the Defendant's Attorney notified OLCRAH that he was withdrawing as the Defendant's representative for the ADH. The Attorney noted that he received no indication from the Defendant that he had changed his mind regarding his desire to proceed with the ADH. (Hearing Record)
26. The Defendant has committed no prior IPV's in the SNAP program. (Ex. 20: edrs query results)

### **CONCLUSIONS OF LAW**

1. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the SNAP program.
2. Section 17b-88 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to recover any public assistance overpayment and take such other action as conforms to federal regulations, including, but not limited to, conducting administrative disqualification hearings.
3. Title 7 of the Code of Federal Regulations ("CFR") section 273.16(a)(1) provides, in pertinent part, as follows:

The State agency shall be responsible for investigating any case of alleged intentional Program violation, and ensuring that appropriate cases are acted upon either through administrative disqualification hearings or referral to a court of appropriate jurisdiction....The State agency should conduct administrative disqualification hearings in cases in which the State agency believes the facts of the individual case do not warrant civil or criminal prosecution...

4. "The State agency shall base administrative disqualifications for intentional Program violations on the determinations of hearing authorities arrived at through administrative disqualification hearings in accordance with paragraph (e) of this section..." 7 CFR § 273.16(a)(3)

5. 7 CFR § 273.16(e)(3)(i) provides, in pertinent part, as follows:

The State agency shall provide written notice to the individual suspected of committing an intentional Program violation at least 30 days in advance of the date a disqualification hearing initiated by the State agency has been scheduled. If mailed, the notice shall be sent either by first class mail or certified mail-return receipt requested. The notice may also be provided by any other reliable method. If the notice is sent using first class mail and is returned as undeliverable, the hearing may still be held.

6. 7 CFR § 273.16(e)(3)(ii) provides as follows:

If no proof of receipt is obtained, a timely (as defined in paragraph (e)(4) of this section) showing of nonreceipt by the individual due to circumstances specified by the State agency shall be considered good cause for not appearing at the hearing. Each State agency shall establish the circumstances in which non-receipt constitutes good cause for not appearing at the hearing. Such circumstances shall be consistent throughout the State agency.

7. 7 CFR § 273.16(e)(4) provides, in pertinent part, as follows:

If the household member or its representative cannot be located or fails to appear at a hearing initiated by the State agency without good cause, the hearing shall be conducted without the household member being represented. Even though the household member is not represented, the hearing official is required to carefully consider the evidence and determine if intentional Program violation was committed based on clear and convincing evidence....In instances where good cause for failure to appear is based upon a showing of nonreceipt of the hearing notice as specified in paragraph (e)(3)(ii) of this section, the household member has 30 days after the date of the written notice of the hearing decision to claim good cause for failure to appear. In all other instances, the household member has 10 days from the date of the scheduled hearing to present reasons indicating a good cause for failure to appear. A hearing official must enter the good cause decision into the record.

8. **The ADH was held in accordance with the requirements in 7 CFR § 273.16(e). Notice of the ADH was sent to the Defendant by certified mail more than 30 days in advance of the hearing. There is no indication the**

**certified mail was sent to a wrong address. The mail was returned, however, because it was unclaimed by the Defendant. A copy of the notification of the ADH was sent by certified mail to the Defendant's Attorney and the mail was signed for and received. When the Defendant did not appear after being sent proper notification, the ADH was held without him being represented, as required by regulation.**

9. "The hearing authority shall base the determination of intentional Program violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, intentional Program violation as defined in paragraph (c) of this section." 7 CFR § 273.16(e)(6)

10. 7 CFR § 273.16(c) provides as follows:

***Definition of intentional Program violation.*** Intentional Program violations shall consist of having intentionally: (1) Made a false or misleading statement, or misrepresented, concealed or withheld facts; or (2) Committed any act that constitutes a violation of SNAP, SNAP regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing, or trafficking of SNAP benefits or EBT cards.

11. 7 CFR § 271.2 provides that the definition of *Trafficking* is as follows:

- (1) 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;
- (2) The exchange of firearms, ammunition, explosives, or controlled substances, as defined in section 802 of title 21, United States Code, for SNAP benefits;
- (3) Purchasing a product with SNAP benefits that has a container requiring a return deposit with the intent of obtaining cash by discarding the product, and intentionally returning the container for the deposit amount;
- (4) Purchasing a product with SNAP benefits with the intent of obtaining cash or consideration other than eligible food by reselling the product, and subsequently reselling the product purchased with SNAP benefits in exchange for cash or consideration other than eligible food; or

- (5) Intentionally purchasing products originally purchased with SNAP benefits in exchange for cash or consideration other than eligible food; or
  - (6) Attempting to buy, sell, steal, or otherwise affect 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 signatures, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone.
12. "No individual may participate as a member of more than one household or in more than one project area, in any month, unless an individual is a resident of a shelter for battered women and children as defined in § 271.2 and was a member of a household containing the person who had abused him or her...." 7 CFR § 273.3(a)
  13. "Program benefits may be used only by the household, or other persons the household selects, to purchase eligible food for the household..." 7 CFR § 274.7(a)
  - 14. The Defendant was not eligible for Connecticut benefits issued to him between [REDACTED] 2018 and [REDACTED] 2018 because they were duplicate benefits; he received benefits from Virginia for the same months.**
  - 15. The Defendant would not have received duplicate SNAP benefits had he accurately and truthfully reported his circumstances to the Department when he filed his application.**
  - 16. The Defendant did not misreport the information inadvertently. He reported the same false information twice, on different days, once in writing and once during an oral interview.**
  - 17. The Defendant misused his SNAP in complicity with another individual. Another person used the Defendant's Virginia SNAP for purposes other than purchasing food for the Defendant's household. For the other person to have done so, he or she needed to have possession of both the Defendant's EBT card and his PIN number. The Defendant was the only person who could have provided them.**
  - 18. While SNAP benefits trafficked in Virginia are not the issue of this ADH, they help to establish that the misreported information in Connecticut was intentional. The Defendant did not innocently forget about his Virginia benefits and leave them lying dormant. He allowed another person to use them, in contravention of SNAP rules. The Defendant could afford to give**

away, exchange or sell his Virginia benefits because he falsified information in order to be granted the same benefits in Connecticut.

**19. Clear and convincing evidence demonstrates that the Defendant committed, and intended to commit, an Intentional Program Violation in the SNAP program.**

20. 7 CFR § 273.16 (b)(1) provides, in pertinent part, as follows:

Individuals found to have committed an intentional Program violation either through an administrative disqualification hearing or by a Federal, State or local court, or who have signed either a waiver of right to an administrative disqualification hearing or a disqualification consent agreement in cases referred for prosecution, shall be ineligible to participate in the Program: (i) For a period of twelve months for the first intentional program violation, except as provided under paragraphs (b)(2), (b)(3), (b)(4), and (b)(5) of this section....

**21. The Defendant is guilty of committing an IPV in the SNAP program and has not committed any prior violations in the program. For a first violation he must be disqualified from participation in SNAP for a period of twelve months.**

22. A recipient claim is an amount owed because of benefits that are overpaid or trafficked. Claims are Federal debts subject to regulations governing Federal debts. State agencies must establish and collect any claim by following the regulations in 7 CFR §273.18.

23. "An Intentional Program violation (IPV) claim is any claim for an overpayment or trafficking resulting from an individual committing and IPV. An IPV is defined in § 273.16." 7 CFR 273.18(b)(1)

24. "As a State agency, you must calculate a claim back to at least twelve months prior to when you became aware of the overpayment and for an IPV claim, the claim must be calculated back to the month the act of IPV first occurred and for all claims, don't include any amounts that occurred more than six years before you became aware of the overpayment." 7 CFR § 273.18(c)(1)

**25. The Department overpaid the Defendant \$521.00 in SNAP for the months from [REDACTED] 2018 to [REDACTED] 2018. The benefits for those months were duplicate benefits. The IPV first occurred in October 2018.**

**26. The \$521.00 SNAP overpayment resulted directly from the Defendant's commission of an IPV. The Department is, therefore, entitled to establish an IPV claim to recover the overpayment in accordance with 7 CFR § 273.18.**

**DECISION**

1. The Defendant is **GUILTY** of committing his first IPV in the SNAP program.
2. As a result of being found guilty of a first offense IPV, the Defendant is ineligible to participate in SNAP for a period of twelve months.
3. The Department may establish an IPV claim to recover \$521.00 in SNAP benefits that were overpaid to the Defendant as a result of his commission of an IPV.

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James Hinckley  
Hearing Officer

cc: [OLCRAH.QA.DSS@ct.gov](mailto:OLCRAH.QA.DSS@ct.gov)  
Tyler Nardine  
Cheryl Stuart

**RIGHT TO APPEAL**

The defendant has the right to appeal this decision to Superior Court within 45 days of the mailing of this decision. The right to appeal is based on §4-183 of the Connecticut General Statutes. To appeal, a petition must be filed at Superior Court. A copy of the petition must be served upon the Office of the Attorney General, 55 Elm Street, Hartford, CT 06106 or the Commissioner of the Department of Social Services, 55 Farmington Avenue, Hartford, CT 06105. A copy of the petition must also be served on all parties to the hearing.

The **45** day appeal period may be extended in certain instances if there is good cause. The extension request must be filed with the Commissioner of the Department of Social Services in writing no later than **90** days from the mailing of the decision. Good cause circumstances are evaluated by the Commissioner or his designee in accordance with §17b-61 of the Connecticut General Statutes. The Agency's decision to grant an extension is final and is not subject to review or appeal.

The appeal should be filed with the clerk of the Superior Court in the Judicial District of New Britain or the Judicial District in which the defendant resides.