

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 # 149206
██████████

NOTICE OF AMENDED DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████, 2019, the Department of Social Services (the "Department") 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 year. The Department alleged that the Defendant committed an Intentional Program Violation ("IPV") as a result of the Defendant's intentionally misrepresenting her household composition. The Department seeks to recover the overpaid SNAP benefits of \$1,883.00. This is the Defendant's first IPV offense in the SNAP program.

On ██████████ 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") notified the Defendant of the initiation of the ADH process via certified mail and scheduled the hearing for ██████████ 2019. The notification outlined a Defendant's rights in these proceedings. The Defendant accepted delivery of the ADH notice on ██████████ 2019.

On ██████████ 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:

Brittany Velleca, DSS Investigator
Thomas Monahan, Hearing Officer

The Defendant did not appear at the hearing.

STATEMENT OF THE ISSUE

The first issue to be decided is whether the Defendant committed an IPV of the SNAP program.

The second issue to be decided is whether the Department's proposal to recoup a SNAP overpayment is correct.

FINDINGS OF FACT

1. On [REDACTED] 2018, the Defendant applied for and received SNAP benefits for herself and one child, [REDACTED] (the "child") [D.O.B. [REDACTED]]. (Exhibit 4: Eligibility Determination Document, [REDACTED], Exhibit 7: Benefit Issuance)
2. On [REDACTED], 2019, the Department received a Periodic Report Form ("PRF") from the Defendant reporting no changes in household composition. (Exhibit 5: PRF, [REDACTED] 19)
3. On [REDACTED] 2019, the Department received a renewal form from the Appellant stating that her child lived with her half of the time and half of the time with his father. (Exhibit 6: Renewal form)
4. On [REDACTED], 2019, the Department received a complaint that the Defendant's child, [REDACTED] did not live with her. (Hearing summary)
5. The child's father was granted sole legal and physical custody of the child effective [REDACTED] 2017. (Exhibit 3: court order [REDACTED] 17)
6. The child's father told the Department's representative that the Defendant has not had custody and has not had any overnight visits during the [REDACTED] 2018 through [REDACTED] 2019 timeframe. (Department's testimony)
7. In [REDACTED] 2018, the Appellant received \$246.00 in SNAP benefits for herself and the child. (Department's testimony, Exhibit 7: Benefit Issuance screen)

8. From [REDACTED] through [REDACTED] 2019, the Appellant received \$353.00 per month in SNAP benefits for herself and the child. (Department's testimony, Ex. 7: Benefit History)
9. On [REDACTED] 2019, the Department sent to the Defendant a Waiver of Disqualification Hearing form and Notice of Prehearing Interview, stating that she received \$1,883.00 in SNAP benefits to which she was not entitled from [REDACTED] r 2018, throu [REDACTED] [REDACTED] 19. The Department proposed to recover the overpayment and to disqualify the Defendant for a period of 12 months due to her intentional program violation. (Exhibit10: Notice of Prehearing Interview, Exhibit 9: Waiver of Disqualification Interview)
- 10 The Defendant failed to appear for the prehearing interview and the Department has had no contact with the Defendant. (Department's testimony)
11. The Defendant has no prior Intentional Program Violations. (Exhibit 9: Disqualification query)

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") 273.16(e) provides that the State agency shall conduct administrative disqualification hearings for individuals accused of Intentional Program Violation.

Uniform Policy Manual ("UPM") § 7050 provides that in the Food Stamp program the Department conducts Administrative Disqualification Hearings in certain instances of alleged intentional recipient error as an alternative to referrals to the court system for prosecution. Individuals, who are determined to have committed an intentional recipient error are subjected to recoupment requirements and, in some cases, are disqualified.

4. UPM § 7050.25(D)(3) provides that if the assistance unit member or his or her representative cannot be located or fails to appear at a hearing without good cause, the hearing is conducted without the assistance unit member being represented.
5. The Defendant was not present at the hearing and did not show good cause for failing to appear.
6. The assistance unit must supply the Department, in an accurate and timely manner as defined by the Department, all pertinent information and verification which the Department requires to determine eligibility and calculate the amount of benefits (cross reference: 1555). UPM § 1010.05
7. Title 7 of the Code of Federal Regulations (“CFR”) §273.1(a) (1)(2)(3) provides for the general household definition and states that a household is composed of one of the following individuals or group of individuals; an individual living alone; an individual living with others but customarily purchasing food and preparing meals for home consumption separate and apart from others; or a group of individuals who live together and customarily purchase food and prepare meals together for home consumption.
8. UPM § 2000.01 provides the definition of household and states that a household is used to designate all of the individuals who are living together in one dwelling unit.
9. 7 CFR § 273.16(c) defines intentional Program violation as follows: For purposes of determining through administrative disqualification hearings whether or not a person has committed an 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 the Food Stamp Act, the Food Stamp Program Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt, or possession of Food Stamp coupons, authorization cards or reusable documents used as part of an automated benefit delivery system (access device).
10. Regulation provides that the Department preliminarily classifies a recipient error as intentional if: the assistance unit fails without good cause to report a change affecting eligibility in a timely manner; or the assistance unit knowingly misinforms the Department regarding information affecting eligibility; or (3) the assistance unit commits an illegal act such as cashing a duplicate check after falsely claiming non-receipt of the first check; or the assistance unit or its authorized representative withdraws cash or food stamp benefits from the EBT account after they notify the Department that

they need a new debit card and before the time the Department's designee deactivates the card.

A final determination of intentional recipient error is made: (1) under all programs, if a court of jurisdiction determines that the assistance unit committed the error intentionally; and (2) under the AFDC and Food Stamp programs, if the assistance unit is found guilty through the Administrative Disqualification Hearing process, or the unit waives its right to the Administrative Disqualification Hearing. UPM § 7005.10(C)(2)(a)(b)

11. 7 CFR § 273.16(e)(6) provides that 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, an Intentional Program Violation.

Regulation provides that an intentional recipient error is an intentionally incorrect oral or written statement made by the assistance unit regarding circumstances affecting eligibility or the amount of benefits. An intentional recipient error is also the intentional failure by the assistance unit to report timely the receipt of income or assets, or other changes in circumstances affecting eligibility or the amount of benefits. UPM § 7000.01

12. The Defendant committed an intentional program violation when she reported on her application in [REDACTED] of 2018 and on her PRF In [REDACTED] 2019 that her child lived with her.
13. The Defendant committed an Intentional Program Violation for the time period of [REDACTED] 2018, through [REDACTED], 2019, because she received SNAP benefits for a child not living with her.
14. The Department correctly determined that the Defendant was overpaid \$112.00 in [REDACTED] 2018. (\$246.00 received - \$134.00 eligible)
15. The Department correctly determined that the Defendant was overpaid \$161.00 per month from [REDACTED] through [REDACTED] 019. (\$353.00 received - \$192.00 eligible)
16. The Department correctly determined that the Defendant was overpaid \$1,183.00 (\$112.00 [REDACTED] 2018 + \$1,771 [\$161.00 x 11 months]).
17. If the intentional recipient error occurred on or after August 1, 1984, the length of the disqualification period is determined as follows:
 - (1) The length of disqualification is the length specified by the court order if a court specifies a period of disqualification.

(2) When the court order does not specify a period of disqualification, the Department determines the length of the disqualification based upon the individual's previous history of intentional recipient error as follows:

- (a) for the first offense, the length of disqualification is one year;
- (b) for the second offense, two years; and
- (c) for the third offense, the disqualification is permanent.

UPM 7050.30(B)(2)

18. The hearing record clearly and convincingly established that the Defendant intentionally failed to report that the child did not live with her.
19. The Defendant's reporting that the child lived with her on the application filed in [REDACTED] of 2018 and the PRF signed [REDACTED] 2019, constitutes a first intentional program violation.
20. The Department is correct to seek the disqualification of the Defendant from participating in the SNAP program for a period of 12 months.
21. Regulation provides that even though the individual is disqualified, the household is responsible for making restitution for the amount of any overpayment. 7 CFR § 273.16(b)(12)
22. The Department is correct to seek recoupment of the \$1,883.00 overpayment from the Defendant.

DECISION

The Defendant is guilty of committing a first offense intentional program violation in the SNAP program as the Defendant knowingly reported that her child lived with her. She is disqualified from the SNAP program for a period of one year and must make restitution for the \$1,883.00 overpayment.



Thomas Monahan
Hearing Officer

C: Stephen Markowski, DSS Fraud & Recoveries
Brittany Velleca, Investigator, New Haven Regional office

RIGHT TO REQUEST RECONSIDERATION

The appellant has the right to file a written reconsideration request within **15** days of the mailing date of the decision on the grounds there was an error of fact or law, new evidence has been discovered or other good cause exists. If the request for reconsideration is granted, the appellant will be notified within 25 days of the request date. No response within 25 days means that the request for reconsideration has been denied. The right to request a reconsideration is based on §4-181a (a) of the Connecticut General Statutes.

Reconsideration requests should include specific grounds for the request: for example, indicate what error of fact or law, what new evidence, or what other good cause exists.

Reconsideration requests should be sent to: Department of Social Services, Director, Office of Administrative Hearings and Appeals, 55 Farmington Avenue, Hartford, CT 06105-3725.

RIGHT TO APPEAL

The appellant has the right to appeal this decision to Superior Court within 45 days of the mailing of this decision, or 45 days after the agency denies a petition for reconsideration of this decision, provided that the petition for reconsideration was filed timely with the Department. 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 06105-3725. 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 the Commissioner's 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 appellant resides.

