

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

██████████ 2019  
SIGNATURE CONFIRMATION

HEARING REQUEST #141131  
EDG/AU ██████████

CASE ID ██████████  
CLIENT ID ██████████

**ADMINISTRATIVE DISQUALIFICATION HEARING**

**NOTICE OF 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 Nutrition Assistance Program ("SNAP") for a period of twelve months. The Department alleged that the Defendant committed an Intentional Program Violation ("IPV") as a result of the Defendant's failure to report the earned income that he received from his employment at ██████████. The Department also seeks to recover the overpaid SNAP benefits for the period of ██████████ 2018 through ██████████, 2019 of \$1,728.00, as prescribed by policy. This would be the Defendant's first IPV offense in the SNAP program.

On ██████████ 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice to the Defendant via certified mail scheduling a hearing for ██████████ 2019 @ 10:00 AM. The signed certified mail receipt was returned by the US Postal Service verifying that the hearing notice and summary were delivered to the Defendant and that he received proper notice. The notification outlined a Defendant's rights in these proceedings

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 Defendant was not present for the hearing. The Defendant did not show good cause for failing to appear.

The following individuals were present for the ADH:

Nicholas Coco, Representative for the Department  
Karen Agosto, Representative for the Department/Observer  
Hernold C. Linton, Hearing Officer

### **STATEMENT OF THE ISSUE**

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

### **FINDINGS OF FACT**

1. The Defendant received SNAP benefits during the period of [REDACTED] 2018 through [REDACTED] 2019. (Hearing Summary; Dept.'s Exhibit #7 Benefit History Search)
2. [REDACTED] 2019, the Department processed the Defendant's Renewal of Eligibility and discovered that he had unreported earnings from the [REDACTED] during the second quarter of 2018. (Hearing Summary)
3. The Defendant started working at the [REDACTED], received his first pay check on [REDACTED] 2018, and he is still an active employee. (Hearing Summary; Dept.'s Exhibit #2: DOL Wage Details)
4. On [REDACTED] 2018, the Defendant signed his Periodic Report Form ("PRF") and his Renewal of Eligibility form on [REDACTED] 2019, but he failed to report the correct total countable income for his household in the Income section of the documents. The Defendant signed the Signature section of the documents declaring that he understands that there are penalties for hiding or giving false information. (Hearing Summary; Dept.'s Exhibit #3: Misstatements)
5. The Defendant signed the rights and responsibilities form agreeing to notify the Department by the 10<sup>th</sup> day of the month following the month that the change occurred, when his income increases to 130% of the Federal Poverty Level ("FPL") for his household size, and that if he breaks the rules on purpose, he would be barred from receiving SNAP benefits for one year. (Dept.'s Exhibit #3)
6. A Department of Labor ("DOL") inquiry revealed that the Defendant had unreported wages from the [REDACTED] during the second and third quarters of 2018. (Hearing Summary; Dept.'s Exhibit #2)

7. On [REDACTED] 2019, the Department received verification from the [REDACTED] of the Defendant's gross wages, and that he received his first pay check on [REDACTED] 2018, and he was still an active employee. (Hearing Summary; Dept.'s Exhibit #2)
8. 130% of the FPL for the Defendant's household size is \$1,307.00 per month. (Hearing Summary; Dept.'s Exhibit #5: Overpayment Calculations)
9. The Department determined that the Defendant was required to report his earned income from the [REDACTED] on his [REDACTED] 2018 PRF and on his [REDACTED] 2019 Renewal of Eligibility form. (Hearing Summary)
10. There is no evidence that the Defendant reported his earned income from the [REDACTED] at the time of his submission of his [REDACTED] 2018 PRF and [REDACTED] 2019 Renewal of Eligibility form. (Hearing Summary; Dept.'s Exhibit #3)
11. The SNAP Gross Income Standard for the Defendant's assistance unit consisting of 1 member is \$1,860.00 per month, or 185% of the Federal Poverty Level ("FPL") for his household size. (Dept.'s Exhibit #5)
12. The Department determined that the Defendant's Monthly Adjusted Income ("NAI") from his employment at the [REDACTED] for the period of [REDACTED] 2018 through [REDACTED] 2019 exceeded the income standard for his assistance unit size. (Hearing Summary; Dept.'s Exhibit #5)
13. The Department determined that the Defendant's failure to report his receipt of earned income from the [REDACTED] caused a willful withholding overpayment of \$1,728.00 in SNAP benefits for the period of [REDACTED] 2018 through [REDACTED], 2019. (Hearing Summary; Dept.'s Exhibit #1: Pre-ADH Interview/SNAP Waiver of Disqualification Hearing Notice)
14. On [REDACTED] 2019, the Department sent a Notice of Prehearing Interview (Form "W-1448") and a SNAP Waiver of Disqualification Hearing Notice (Form "W-1449") to the Defendant, scheduling an appointment for [REDACTED], 2019 at 9:00 AM for the Defendant to attend a prehearing interview to discuss the matter. (Hearing Summary; Dept.'s Exhibit #1)
15. The Department gave the Defendant until [REDACTED] 2019 to sign and return the W-1449 agreeing with the proposed disqualification and repayment of the overpaid SNAP benefits, or the Department would pursue an Administrative Disqualification Hearing ("ADH"). (Hearing Summary; Dept.'s Exhibit #2)
16. The Defendant did not contact the Department regarding the Prehearing Interview and Waiver of Disqualification Hearing notices that were sent to him on [REDACTED] 2018. (Hearing Summary; Dept.'s Exhibit #1)

17. The Defendant did not sign and return the SNAP Waiver of Disqualification Hearing Notice agreeing with the Department's proposal to disqualify him from participating in the SNAP program. (Hearing Summary)
18. The Department determined that this is the Defendant's first IPV of the SNAP program, as he has no prior IPV's. (Hearing Summary; Dept.'s Exhibit #8: eDRS Prior Disqualifications)
19. The Department determined that its review of the Defendant's record revealed no mitigating circumstances to substantiate that the Defendant's violation of the SNAP regulations regarding the reporting of his earned income from the [REDACTED] was unintentional. (See Facts # 1 to 18; Hearing Summary)
20. The Defendant is currently not an active recipient of SNAP benefits. (Hearing Summary)
21. The Department proposed to recover the overpaid SNAP benefits by billing the Defendant, as prescribed by the Uniform Policy Manual ("UPM"). (Hearing Summary)

### **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. Uniform Policy Manual ("UPM") § 7050 outlines the Administrative Disqualification Hearing process.
4. UPM § 7050.05(A)(1) provides that the Department considers an overpayment to be the result of an intentional recipient error if:
  - a. a court of competent jurisdiction decrees that the assistance unit member has committed an intentional recipient error or grants the individual accelerated rehabilitation; or
  - b. the Department, through the Administrative Disqualification Hearing process, determines that the assistance unit member has committed an intentional recipient error; or
  - c. the assistance unit member waives his or her right to an Administrative Disqualification Hearing.

5. UPM § 7050.05(A)(2) provides that an Administrative Disqualification Hearing is a hearing conducted by the Department in which the Department determines whether an AFDC or Food Stamp assistance unit member has caused an overpayment by committing an intentional recipient error.
6. UPM § 7050.05(A)(3) provides that if the Department determines at the Administrative Disqualification Hearing that the overpayment was not caused by intentional recipient error, or if the Department is unable to prove that the recipient error was intentional:
  - a. the Department considers the error as either an unintentional recipient error or as an administrative error; and
  - b. the Department recoups the overpayment as described in Sections 7030 and 7045.
7. UPM § 7050.30 sets forth disqualification penalties and procedures as a result of an Intentional Program Violation.
8. UPM § 1555.05 outlines the reporting requirements.
9. SNAP recipients are required to report when their household's total gross monthly income exceeds 130% of the Federal Poverty Level ("FPL") for the household size. (Program Information Bulletin No: 08-06)
10. The Defendant did not report his receipt of earned income from his employment at the [REDACTED] during the period of [REDACTED] 2018 through [REDACTED] 2019 on his [REDACTED] 2018 PRF and on his [REDACTED] 2019 Renewal of Eligibility form.
11. The Department correctly determined that the Defendant's earned income from the [REDACTED] during the period of [REDACTED] 2018 through [REDACTED] 2018 exceeded the SNAP Gross Income Standard for the Defendant's assistance unit of 185% of the FPL for 1, or \$1,860.00 per month.
12. The Defendant's failure to report his earned income from the [REDACTED] during the period of [REDACTED] 2018 through [REDACTED] 2019, allowed for his assistance unit to receive SNAP benefits that he was not otherwise eligible to receive.
13. Had the Defendant reported his earned income from the [REDACTED], the assistance unit would not have received an overpayment in SNAP benefits for the period of [REDACTED] 2018 through [REDACTED] 2019.
14. The overpaid SNAP benefits for the period of [REDACTED] 2018 through [REDACTED] 2019 totaling \$1,728.00 was caused by an IPV, as the Defendant's failure to report his earned income from the [REDACTED] [REDACTED] has been determined to be intentional, based on a review of the evidence submitted.

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

16.7 CFR 273.16(b) identifies the disqualification penalties 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;

(ii) For a period of twenty-four months upon the second occasion of any intentional Program violation, except as provided in paragraphs (b)(2), (b)(3), (b)(4), and (b)(5) of this section; and

(iii) Permanently for the third occasion of any intentional Program violation

17.7 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 or ATP's.

18.7 CFR 273.16(e)(6) defines the criteria for determining intentional program violation as follows:

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.

19. The hearing record clearly and convincingly established that the Defendant's failure to report to the Department his earned income from the [REDACTED] [REDACTED] on his [REDACTED] 2018 PRF and on his [REDACTED] 2019 Renewal of Eligibility form was intentional.

20. The Defendant's failure to report to the Department his earned income from the Gordon Corporation constitutes an intentional program violation of the reporting requirements of the SNAP program.
21. The Department correctly determined that the Defendant committed a first offense IPV of the SNAP program, and correctly proposed to disqualify the Defendant from participating in the SNAP program for a period of twelve (12) months, or one (1) year.
22. The Department is to disqualify the Defendant from participating in the SNAP program for a period of one year/twelve months.
23. The Department is to recover the total amount (\$1,728.00) of the overpaid SNAP benefits from the Defendant by establishing a billing, as prescribed by policy.

### **DECISION**

The Defendant is guilty of committing a first offense intentional program violation of the reporting requirements of the SNAP program.



Hernold C. Linton  
Hearing Officer

Pc: **Stephen Markowski**, Investigations and Recoveries,  
DSS, Central Office, 55 Farmington Avenue, Hartford, CT 06105

**Nicholas Coco**, Investigator,  
DSS, R.O. #52, New Britain

**Scott Anderson**, Investigations Supervisor,  
DSS, R.O. #52, New Britain

### **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.