

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

██████████ 2019
Signature Confirmation

██████████
██████████
Request # 142435

ADMINISTRATIVE DISQUALIFICATION HEARING
NOTICE OF DECISION

PARTY

██████████
██████████
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REASON FOR HEARING

On ██████████, 2019, the Department of Social Services (the "Department") made a request for an Administrative Disqualification Hearing ("ADH") to seek disqualification of ██████████ (the "Defendant"), from participation in the Supplemental Nutrition Assistance Program ("SNAP") for twelve (12) months. The Department alleges that the Defendant committed an Intentional Program Violation ("IPV") by failing to report that he was active SNAP benefits in the state of Massachusetts. The Department also seeks to recover overpaid SNAP benefits in the amount of \$672.00.

On ██████████ 2019, the Office of Legal Counsel, Regulations and Administrative Hearings ("OLCRAH") mailed the Defendant notification of the initiation of the ADH process scheduled for ██████████, 2019, which included notification of his rights in these proceedings via certified mail.

On [REDACTED], 2019, OLCRAH received confirmation from the United States Postal Service (“USPS”) that the Appellant did not sign for the ADH notice. A copy was mailed via regular United States post.

On [REDACTED], 2019, OLCRAH conducted the Administrative Disqualification Hearing in accordance with section 17b-88 of the Connecticut General Statutes and Title 7 of the Code of Federal Regulations section 273.16 subsection (e).

The Defendant was not present at the hearing. The Defendant did not show good cause for failing to appear. The following individuals were present at the hearing:

Megan Monroe, Investigator, Department’s Representative
Amy Hayden, Investigations Supervisor, Department’s Representative
Carla Hardy, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Defendant committed an intentional program violation (“IPV”) of the SNAP and is subject to a disqualification penalty of twelve months.

A secondary issue to be decided is whether the Department’s proposal to recoup a SNAP overpayment of \$672.00 for the period [REDACTED] 2018, through [REDACTED] 2018, is correct.

FINDINGS OF FACT

1. On [REDACTED] 2018, the Defendant became active SNAP benefits in the state of Massachusetts. (Exhibit D: PARIS match from Massachusetts, [REDACTED]/19)
2. On [REDACTED] 2018, the Defendant applied for SNAP benefits for himself in the state of Connecticut. The address listed on the application is [REDACTED] [REDACTED] CT. (Exhibit C: Online Application, [REDACTED]/19; Hearing Summary)
3. The Defendant indicated on his application that he had not lived anywhere else in the past 60 months. (Exhibit C)
4. On [REDACTED] 2019, the Department conducted a telephone interview. The Defendant stated he had not received any benefits from another state within the last 90 days. (Exhibit J: Case Notes)
5. On [REDACTED] 2018, the Department denied the SNAP application for failure to provide the requested information. (Exhibit J: Case Notes)

6. On [REDACTED] [REDACTED] 2018, the Department received the requested information needed to determine eligibility. They granted the SNAP benefit effective [REDACTED] 2018. (Exhibit J)
7. On [REDACTED], 2019, the Defendant's SNAP benefits in Connecticut were discontinued. (Hearing Summary)
8. On [REDACTED] 2019, the Defendant's SNAP benefits in Massachusetts were discontinued. (Exhibit D; Department's Testimony)
9. On [REDACTED] [REDACTED] 2019, the Department received notification from the Massachusetts Department of Transitional Assistance that the Defendant received SNAP benefits in Massachusetts from [REDACTED] 2018, through [REDACTED] 2019. (Exhibit D)
10. The Defendant did not use any of the Massachusetts SNAP after [REDACTED] 2018. He last used the Massachusetts SNAP on [REDACTED] 2018. (Exhibit K; Department's Testimony)
11. The Massachusetts SNAP benefits are still available to the Appellant and have not been expunged from his account. (Department's Testimony)
12. On [REDACTED], 2019, the Department conducted an interview with the Defendant. The Defendant indicated he had not used the Massachusetts SNAP and so believed he did nothing wrong. He informed the Department that he was moving out of state the following day. (Department's Testimony; Hearing Summary)
13. For the period [REDACTED] 2018, through [REDACTED], 2019, the Department issued the following SNAP benefits to the Defendant:

MONTH	AMOUNT
[REDACTED] 2018	\$124.00
[REDACTED] 2018	0.00
[REDACTED] 2018	81.00
[REDACTED] 2018	97.00
[REDACTED] 2018	97.00
[REDACTED] 2018	97.00
[REDACTED] 2019	88.00
[REDACTED] 2019	88.00
TOTAL	\$672.00

(Exhibit I: CT SNAP Transaction History)

14. On [REDACTED] 2019, the fraud unit mailed a Notice of Prehearing Interview to the Defendant. The notice charged that the Defendant broke the rules regulating the SNAP by receiving benefits in Massachusetts and Connecticut simultaneously. The Appellant incurred an overpayment

- totaling \$672.00. The notice scheduled an appointment with the fraud unit for [REDACTED], 2019, to discuss the charge. (Exhibit E: Notice of Prehearing Interview)
15. On [REDACTED] [REDACTED] 2019, the fraud unit mailed a Waiver of Disqualification Hearing to the Defendant. The notice charges the Defendant with an Intentional Program Violation (“IPV”). The notice informs the Defendant of an overpayment of \$672.00 for the period [REDACTED], 2018, through [REDACTED] [REDACTED] 2019, with repayment options by lump sum or monthly payments in the amount of \$17.00. It also gave the Defendant options to voluntarily admit to the violation, voluntarily sign a waiver or exercise his rights to an administrative hearing. (Exhibit F: Waiver of Disqualification Hearing)
 16. The Defendant did not attend the Prehearing Interview that was scheduled for [REDACTED], 2019, nor did he sign the Waiver of Disqualification form (Department’s Testimony, Hearing Summary).
 17. The Department determined the Defendant committed an IPV because the Defendant received SNAP benefits in Connecticut and Massachusetts simultaneously. (Hearing Record)
 18. The Department determined the Defendant was ineligible for SNAP benefits for the period [REDACTED], 2018, through [REDACTED], 2019, because the Defendant was in receipt of SNAP benefits from Massachusetts while receiving benefits in Connecticut (Hearing Record).
 19. For the period [REDACTED] 2018, through [REDACTED] 2019, the Department determined the Defendant was overpaid \$672.00 in SNAP benefits because the Defendant was receiving SNAP benefits in Massachusetts and Connecticut at the same time. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-2(7) of the Connecticut General Statutes (“Conn. Gen. Stat.”) provides that the Department of Social Services is designated as the state agency for the administration of the supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008.
2. Statute provides that if a beneficiary of assistance under the state supplement program, medical assistance program, aid to families with dependent children program, temporary family assistance program, state-administered general assistance program, food stamp program or supplemental nutrition assistance program receives any award or grant over the amount to which he is entitled under the laws governing eligibility, the Department of Social Services (1) shall immediately initiate

- recoupment action and consult with the Division of Criminal Justice to determine whether to refer such overpayment, with full supporting information, to the state police, to a prosecuting authority for prosecution or to the Attorney General for civil recovery, or (2) shall take such other action as conforms to federal regulations, including, but not limited, to, conducting administrative disqualification hearings for cases involving alleged fraud in the food stamp program, supplemental nutrition assistance program, the aid to families with dependent children program, the temporary family assistance program or the state-administered general assistance program. [Conn. Gen. Stat. § 17b-88]
3. 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 in accordance with the procedures outlined in this section. Administrative disqualification procedures or referral for prosecution action should be initiated by the State agency in cases in which the State agency has sufficient documentary evidence to substantiate that an individual has intentionally made one or more acts of intentional Program violation as defined in paragraph (c) of this section. If the State agency does not initiate administrative disqualification procedures or refer for prosecution a case involving an over issuance caused by a suspected act of intentional Program violation, the State agency shall take action to collect the over issuance by establishing an inadvertent household error claim against the household in accordance with the procedures in § 273.18. 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 through the appropriate court system, in cases previously referred for prosecution that were declined by the appropriate legal authority, and in previously referred cases where no action was taken within a reasonable period of time and the referral was formally withdrawn by the State agency. The State agency shall not initiate an administrative disqualification hearing against an accused individual whose case is currently being referred for prosecution or subsequent to any action taken against the accused individual by the prosecutor or court of appropriate jurisdiction, if the factual issues of the case arise out of the same, or related, circumstances. The State agency may initiate administrative disqualification procedures or refer a case for prosecution regardless of the current eligibility of the individual. [7 C.F.R. § 273.16(a)(1)]
 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 or on determinations reached by courts of

appropriate jurisdiction in accordance with paragraph (g) of this section. However, any State agency has the option of allowing accused individuals either to waive their rights to administrative disqualification hearings in accordance with paragraph (f) of this section or to sign disqualification consent agreements for cases of deferred adjudication in accordance with paragraph (h) of this section. Any State agency which chooses either of these options may base administrative disqualifications for intentional Program violation on the waived right to an administrative disqualification hearing or on the signed disqualification consent agreement in cases of deferred adjudication. [7 C.F.R. § 273.16(a)(3)]

“The department’s uniform policy manual is the equivalent of a state regulation and, as such, carries the force of law.” *Bucchere v. Rowe*, 43 Conn. Supp. 175, 178 (1994) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d 712 (1990)).

Uniform Policy Manual (“UPM”) § 7050 provides that in the AFDC and Food Stamp programs 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 from the AFDC and/or Food Stamp programs for a specified amount of time. This chapter describes the Department’s policies and procedures concerning the Administrative Disqualification hearing process.

5. Each application form shall contain a statement to be signed by one adult household member which certifies, under penalty of perjury, the truth of the information contained in the application, including the information concerning citizenship and alien status of the members applying for benefits. [7 C.F.R. § 273.2(b)(1)(iii)]

Monthly reporting households are required to report as provided in § 273.21. Quarterly reporting households are subject to the procedures as provided in paragraph (a)(4) of this section. Simplified reporting households are subject to the procedures as provided in paragraph (a)(5) of this section. [7 C.F.R. § 273.12(a)(1)(iii)]

UPM § 3525.05 provides that as a condition of eligibility, members of the assistance unit are required to cooperate in the initial application process and in reviews, including those generated by reported changes, redeterminations, and Quality Control. (Cross Reference: Eligibility Process 1500)

UPM § 1010.05(B)(1) provides that the assistance unit must report to the Department, in an accurate and timely manner as defined by the Department, any changes which may affect the unit's eligibility or amount of benefits (cross reference 1555).

UPM § 1555.15(A) provides that in general, assistance units are required to report timely all changes which may affect eligibility or benefit level.

UPM § 1555.15(B)(8) provides that changes affecting eligibility or benefit level include, but are not limited to the following: changes relating to any other categorical, technical or procedural eligibility requirement.

UPM § 3030.05(D)(3) provides that an individual who is eligible for Food Stamps may not receive Food Stamps from another state or territory concurrently, except for a resident of a battered women's shelter.

6. The Department correctly determined the Defendant failed to report that he was receiving SNAP assistance in Massachusetts.
7. The State agency shall conduct administrative disqualification hearings for individuals accused of an intentional Program violation in accordance with the requirements outlined in this section. [7 C.F.R. § 273.16(e)]

UPM § 7050.05(A)(2) provides that an Administrative Disqualification Hearing is a hearing conducted by the Department in which the Department determined whether an AFDC or Food Stamp assistance unit member has caused an overpayment by committing an intentional recipient error.

8. 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 C.F.R. § 273.16(e)(6)]

Intentional Program Violations shall consist of having intentionally: made a false or misleading statement, or misrepresented, concealed or withheld facts. [7 C.F.R. § 273.16(c)(1)]

UPM § 7005.10(C)(2)(a) provides that the Department preliminarily classifies a recipient error as intentional if:

1. The assistance unit fails without good cause to report a change affecting eligibility in a timely manner; or
2. 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 nonreceipt of the first check.
4. 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.

UPM § 7000.01 defines an intentional recipient error as 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 § 7005.10(C)(2)(b) provides for a final determination intentional recipient error is made:

1. Under all programs, if a court of jurisdiction determined 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(A)(3) provides that if the Department seeks to impose a penalty against the assistance unit, a final determination regarding the nature of a recipient error is made either by a court of jurisdiction or by the Department through the Administrative Disqualification Hearing Process.

9. The Department correctly determined that the Defendant intentionally committed a violation of SNAP regulations by failing to report that he was receiving SNAP benefits in Massachusetts.
10. The evidence substantiates that the Defendant intentionally committed an IPV.
11. 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: 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. [7 C.F.R. § 273.16(b)(1)(i)]

UPM § 7050.30(A)(1)(b) provides that an individual is disqualified from participating in the AFDC or Food Stamp program if: a determination of an intentional recipient error is made by an Administrative Disqualification Hearing official.

UPM § 7050.30(B)(2)(a) provides that if the intentional recipient error occurred on or after August 1, 1984, the length of the disqualification period is determined as follows: 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 or intentional recipient error as follows: for the first offense, the length of disqualification is one year.

12. The Department is correct to disqualify the Defendant from participating in the SNAP program for a period of 12 months because he committed a first offense of an IPV.
13. If the State agency discovers that the household failed to report a change as required by paragraph (a) of this section and, as a result, received benefits to which it was not entitled, the State agency shall file a claim against the household in accordance with § 273.18. If the discovery is made within the certification period, the household is entitled to a notice of adverse action if the household's benefits are reduced. A household shall not be held liable for a claim because a change in household circumstances which it is not required to report in accordance with § 273.12(a)(1). Individuals shall not be disqualified for failing to report a change, unless the individual is disqualified in accordance with the disqualification procedures specified in § 273.16. [7 C.F.R. § 273.12(d)]

UPM § 7005 provides that this chapter outlines the steps the Department takes when it discovers that an assistance unit has received benefits in an amount either less than or greater than that to which it is entitled. The process consists of identifying the error; determining who caused the error; computing the amount of the error; determining how to correct the error; notifying the assistance unit of the error; actually correcting the error.

UPM § 7005.05 provides that the Department becomes aware of a benefit error in many different ways, including, but not limited to, the following: Department's Internal Control.

14. A household shall live in the State in which it files an application for participation. The State agency may also require a household to file an application for participation in a specified project area (as defined in §271.2 of this chapter) or office within the State. 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. Residents of shelters for battered women and children shall be handled in accordance with §273.11(g). The State agency shall not impose any durational residency requirements. The State agency shall not require an otherwise eligible household to reside in a permanent dwelling or have a fixed mailing address as a condition of eligibility. Nor shall residency require an intent to reside permanently in the State or project area. Persons in a project area solely for vacation purposes shall not be considered residents. [7 C.F.R. § 273.3(a)]

Each State agency shall establish a system to assure that no individual participates more than once in a month, in more than one jurisdiction, or in more than one household within the State in SNAP. [7 C.F.R. § 272.4(e)(1)]

UPM § 3030.05(D)(3) provides that an individual who is eligible for Food Stamps may not receive Food Stamps from another state or territory concurrently, except for a resident of a battered women's shelter.

15. The Department correctly determined the Defendant received SNAP benefits in Connecticut and Massachusetts simultaneously.
16. The Department correctly determined the Defendant ineligible for SNAP benefits in Connecticut for the period [REDACTED], 2018, through [REDACTED], 2019.
17. A recipient claim is an amount owed because of benefits that are overpaid. 7 C.F.R. § 273.18(a)(1)(i)

This claim is a Federal debt subject to this and other regulations governing Federal debts. The State agency may establish and collect any claim by following these regulations. [7 C.F.R. § 273.18(a)(2)]

UPM § 7001.01 defines an overpayment as the amount of financial or medical assistance paid to or on behalf of the assistance unit, or the amount of the Food Stamp allotment issued to an assistance unit, in excess of the amount to which the unit is properly entitled.

18. An intentional program violation (IPV) claim is any claim for an overpayment or trafficking resulting from an individual committing an IPV. An IPV is defined in § 273.16. [7 C.F.R. § 273.18(b)(1)]

UPM § 7045.15(C)(1) provides that if an eligibility factor other than income causes an overpayment, the Department computes the amount of the overpayment by applying the non-income-related factor prospectively.

UPM § 7045.15(C)(2) provides that the overpayment begins as of the date the factor should have been considered in the eligibility determination. In determining this date, the Department allows for the ten day notification period, if appropriate.

UPM § 7045.15(C)(3) provides that overpayments caused by non-income-related factors include, but are not limited to, the following situations:

- a. Member of the assistance unit leaves the home but is not removed from the award;
- b. The unit's assets exceed the asset limit.
- c. An assistance unit or authorized representative withdraws Food Stamp benefits from their EBT Food Stamp account after they notify the Department that they need a new debit card and before the time the Department's designee deactivates the card.

19. The Department correctly determined the SNAP overpayment as an intentional recipient error.
20. Title 7 of the C.F.R. § 273.18(c)(1) provides for the calculation of the claim amount not related to trafficking.

As a State agency, you must calculate a claim back to at least twelve months prior to when you become 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 C.F.R. § 273.18(c)(1)(i)]

UPM § 7045.15(E)(1) provides that an overpayment caused by intentional recipient error begins the first date covered by an erroneously issued benefit when the overpayment is caused by the assistance unit's misstatement.

The actual steps for calculating a claim are:

- A. Determine the correct amount of benefits for each month that a household received an overpayment.
- B. Do not apply the earned income deduction to that part of any earned income that the household failed to report in a timely manner when this act is the basis for the claim unless the claim is an AE claim then apply the earned income deduction.

C. Subtract the correct amount of benefits from the benefits actually received. The answer is the amount of the overpayment. [7 C.F.R. § 273.18(c)(1)(ii)]

UPM § 7045.15(A) provides that the Department computes the amount of the overpayment by comparing the amount of the benefit which the assistance unit received and cashed during a month or series of months to the amount of the assistance unit should have received during that period.

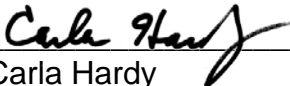
UPM § 7005.15(A) provides that the Department computes the amount of the error by comparing the amount of the benefits the assistance unit actually did receive for a particular month or series of months.

UPM § 7005.15(B) provides that the Department uses the rules pertinent to the program in which the error occurred at the time of the error in computing the assistance unit's eligibility and amount of benefits the unit should have received.

21. The Department correctly determined the overpayment begin date as [REDACTED] 2018.
22. The Department correctly determined the Defendant was overpaid \$672.00 for the period [REDACTED] 2018, through [REDACTED] 2019, because the Defendant failed to report that he was receiving SNAP benefits in Massachusetts resulting in the ineligibility of SNAP benefits in Connecticut for [REDACTED] 2018, through [REDACTED], 2019.

DECISION

1. The Defendant is **GUILTY** of committing a first intentional program violation in the SNAP.
2. The Department's request that the Defendant is disqualified and ineligible to participate in the SNAP for a period of one year is **GRANTED.**
3. The Department is authorized to seek recovery of the \$672.00 overpayment from the Defendant.



Carla Hardy
Hearing Officer

Pc: Stephen Markowski, Director, Investigations and Recoveries, DSS
Jordyn O'Donovan, Public Assistance Consultant, DSS
Amy Hayden, Investigations Supervisor, DSS
Megan Monroe, Investigator, DSS

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.