

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

[REDACTED], 2019
Signature Confirmation

Request # 143170
[REDACTED]

ADMINISTRATIVE DISQUALIFICATION HEARING
NOTICE OF DECISION
PARTY

[REDACTED]

PROCEDURAL BACKGROUND

The Department of Social Services (the "Department") requested an Administrative Disqualification Hearing ("ADH") to seek the disqualification of [REDACTED] (the "Defendant") from participating in the Supplemental Nutritional Assistance Program ("SNAP") for a period of one year (12 months). The Department alleged that the Defendant committed an Intentional Program Violation ("IPV") as a result of the Defendant's intentionally misrepresenting her application and dual collection of SNAP benefits. The Department seeks to recover the overpaid SNAP benefits of \$1244.00. This is the Defendant's first IPV offense in the SNAP program.

[REDACTED] 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") notified the Defendant of the initiation of the ADH process via certified mail.

[REDACTED], 2019, OLCRAH resent the notification to the Defendant's current address. The notice notified the Defendant of the initiation of the ADH process via certified mail and scheduled a telephone hearing for [REDACTED] 2019, at [REDACTED] AM. The tracking information system of the U.S. Postal Service ("USPS") for certified mail verified that on [REDACTED] 2019, USPS attempted to delivery the ADH packet and a notice was left because an authorized recipient was not available.

[REDACTED], 2019, the ADH notification was resent by regular mail to the Defendant's address of record and was not returned by the Postal Service as being

undelivered attesting that proper notice of the ADH process was received by the Defendant. The notification outlined the Defendant's rights in these proceedings.

██████████, 2019, in accordance with sections 17b-60, 17-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held a telephone 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 at the hearing:

Megan Monroe, DSS Investigator, DSS Investigations Division
Veronica King, Hearing Officer

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. ██████████, 2018, the Defendant applied for SNAP benefits for herself only through a paper application ("W-1E"). On the W-1E, the Defendant failed to report that she received SNAP benefits in any other state. (Exhibit 1: W-1E)
2. ██████████ 2018, the Department's eligibility worker conducted a SNAP interview with the Defendant. The Defendant stated that she received benefits in New Hampshire in the past. The Department's eligibility worker concluded the eligibility process and grant the Defendant's SNAP benefits based on that she was not active in any other state. (Department's representative's testimony and Hearing Record)
3. From ██████████, 2018, through ██████████, 2019, the Defendant received \$1244.00 in CT SNAP benefits. (Exhibit 6: W-262CF Report of Suspect Intentional Program Violation Overpayment and Hearing Record)
4. The Department received an interstate match showing that the Defendant was a recipient of SNAP benefits in Georgia. (Department's representative's testimony and Hearing Record)
5. ██████████, 2019, the Department received verification from Georgia that the Defendant received SNAP benefits in GA from ██████████ 2016 – ██████████ 2019, and that she reapplied or GA SNAP benefits and is now active from

██████████ 2019 – present. (Exhibit 3: email correspondence ██████████/19 and Exhibit 4: GA Issuance Summary)

6. ██████████, 2019, the Department mailed the Defendant a W-1448 Notice of Prehearing Interview SNAP program. The Department scheduled an appointment with the Defendant at the ██████████ Department of Social Services office for ██████████, 2019 at ██████████ PM, or call 860.██████████ to discuss the proposed violation and overpayment of the SNAP benefits. (Exhibit 5: W-1448 Notice of Prehearing Interview and W1449 Notice of waiver disqualification hearing SNAP program)
7. ██████████, 2019, the Department mailed the Defendant a W-1449 Waiver of SNAP Disqualification Hearing form notifying the Defendant of the \$1,244.00 SNAP benefits that she received during the period of ██████████, 2018 through ██████████, 2019 to which she was not entitled. The Department proposed to recover the overpayment and to disqualify the Defendant for a period of twelve months due to her intentional program violation. The form asked the Defendant to acknowledge that she committed an intentional program violation and that she received the \$1, 244.00 overpayment. (Exhibit 5)
8. The Defendant did not appear nor call for the prehearing interview and did not sign the waiver. (Hearing Record)
9. The Defendant has had no prior IPV's of the SNAP program. (Hearing Record)

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.
4. "The Department's Uniform Policy Manual ("UPM") 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, 2017 Conn. 601, 573 A.2d 712 (1990)).

5. 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.
6. 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.

The Defendant received proper notice of the hearing.

The Defendant did not have good cause for failing to appear.

7. UPM § 1010 provides for responsibilities of applicants and recipients and states that the assistance unit, by the act of applying for or receiving benefits, assumes certain responsibilities in its relationship with the Department.
8. UPM § 1010.05 provides for supplying information and reporting changes and states in part that (A) 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 the benefits. (B) 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
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. 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.

11. UPM § 3030.30 provides that (A) Residency in the state is a technical eligibility requirement for Food Stamps. An individual meets the residency requirement by living in Connecticut. (B) Intent to remain in the state is not a requirement. Vacationers in Connecticut from out of state, however, are not considered residents of this state. (C) There is no durational residency requirement. (D) No individual may establish residence in more than one place in any one month, except women and children moving into shelters for battered women. (E) An otherwise eligible assistance unit is not required to reside in a permanent dwelling or have a fixed mailing address.

The Defendant intended to commit and committed an IPV when she made a false or misleading statement, or misrepresented, concealed or withheld facts, and did not correctly report her SNAP benefits in Georgia when she applied for CT SNAP benefits in [REDACTED] 2018.

The Defendant intended to commit and committed an IPV when she received SNAP benefits in Georgia and Connecticut concurrently.

The hearing record clearly and convincingly established that the Defendant intentionally misrepresented, concealed or withheld facts to the Department which caused her to receive benefits to which she was not entitled.

The Defendant's intentional misstatement and failure to correctly report her active Georgia SNAP benefits to the Department constitutes a first offense intentional program violation.

12. Title 7 CFR § 273.16 (b) (5) provides for disqualification penalties.
13. UPM § 7050.30(2)(b) provides that the length of disqualification is the length specified by the court order if a court specifies a period of disqualification. 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;

The Department is correct to seek the disqualification of the Defendant from participating in the SNAP program for a period of 1 year.

14. Title 7 CFR § 273.16(b)(12) provides that even though the individual is disqualified, the household, as defined in § 273.1, is responsible for making restitution for the amount of any overpayment. All intentional Program

violation claims must be established and collected in accordance with the procedures set forth in § 273.18.

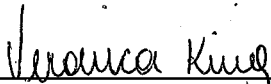
15. Title 7 CFR § 273.18(a) provides that a claim for overpaid benefits represents a Federal debt and that the State agency must develop an adequate plan for establishing and collecting claims.
16. UPM § 7045.15(E) provides that an overpayment caused by intentional recipient error begins the first date covered by an erroneously issued benefit, and ends the last day of the month the Department becomes aware of the error.
17. UPM § 7045.10 provides that the Department recoups an overpayment caused by intentional recipient error if the overpayment occurred no earlier than 72 months prior to the month the Department discovers it.

The Department correctly determined that the \$1,244.00 in concurrent SNAP issued to the Defendant from [REDACTED], 2018 through [REDACTED], 2019, represents an intentional recipient error overpayment.

The Department is correct to seek recovery from the Defendant of \$1, 244.00 in improperly paid SNAP benefits.

DECISION

The Defendant is guilty of committing a first IPV in the SNAP program; thus, a disqualification of one (1) year from the SNAP program is appropriate. The Defendant must make restitution of the SNAP overpayment in the amount of \$1, 244.00.



Veronica King
Hearing Officer

Cc: Stephen Markowski, DSS Fraud & Recoveries Director, CO
Amy Hayden, DSS Investigations Supervisor
Megan Monroe, DSS Investigator

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.