

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3730

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

Request #: 143891

Client ID #: ██████████
██████████

ADMINISTRATIVE DISQUALIFICATION HEARING
NOTICE OF DECISION
PARTY

██████████

PROCEDURAL BACKGROUND

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 (1) year. The Department alleged the Defendant committed an Intentional Program Violation ("IPV") by engaging in trafficking of his SNAP benefits. The Department seeks to recover SNAP benefits of \$1,020.45. This is the Defendant's first IPV offense in the SNAP.

On ██████████, 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") mailed the Defendant notification of the initiation of the ADH process via certified mail and scheduled the hearing for ██████████ 2019. The Defendant accepted delivery of the ADH notice on ██████████ 2019.

On ██████████ 2019, OLCRAH conducted the ADH in accordance with section 17b-88 of the Connecticut General Statutes and section 273.16(e) of the Code of Federal Regulations. The Defendant was not present at the hearing. The Defendant did not show good cause for failing to appear for the ADH.

The following individuals were present at the hearing:

William Carrasquillo, Department's Representative
Thomas Monahan, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Defendant committed an IPV of the SNAP program, and is subject to disqualification from the program for 12 months and whether the resulting overpayment of benefits is subject to recovery.

FINDINGS OF FACT

1. The Defendant is a recipient of SNAP benefits. (Exhibit 8: Benefit History; Department's testimony)
2. [REDACTED], CT [REDACTED]. [REDACTED] is approximately 1400 square feet. The most expensive SNAP eligible food items in the store are a 24 and 36 pack of water, a 12 pack of soda, and a four-pack of red bull. There are no shopping carts or baskets for customer use. (Exhibit 9: Store information sheet)
3. On [REDACTED] 2018, the Defendant's Electronic Benefit Transfer ("EBT") card was used at 9:33 a.m. to complete a \$55.12 transaction at [REDACTED]. (Exhibit 3: EBT transaction detail)
4. On [REDACTED], 2018, the Defendant's Electronic Benefit Transfer ("EBT") card was used at [REDACTED] to complete a \$25.84 transaction at [REDACTED]. (Exhibit 3: EBT transaction detail)
5. On [REDACTED] 2018, the Defendant's Electronic Benefit Transfer ("EBT") card was used at [REDACTED] to complete a \$24.98 transaction at [REDACTED]. (Exhibit 3: EBT transaction detail)
6. On [REDACTED], 2018, the Defendant's Electronic Benefit Transfer ("EBT") card was used at [REDACTED] a.m. to complete a \$55.23 transaction at [REDACTED]. (Exhibit 3: EBT transaction detail)
7. On [REDACTED] 2018, the Defendant's Electronic Benefit Transfer ("EBT") card was used at [REDACTED] a.m. to complete a \$45.23 transaction at [REDACTED]. (Exhibit 3: EBT transaction detail)
8. On [REDACTED], 2018, the Defendant's Electronic Benefit Transfer ("EBT") card was used at [REDACTED] a.m. to complete a \$20.15 transaction at [REDACTED]. (Exhibit 3: EBT transaction detail)
9. On [REDACTED], 2018, the Defendant's Electronic Benefit Transfer ("EBT") card was used at [REDACTED] a.m. to complete a \$55.23 transaction at [REDACTED]. (Exhibit 3: EBT transaction detail)

10. On [REDACTED] 2018, the Defendant's Electronic Benefit Transfer ("EBT") card was used at [REDACTED] a.m. to complete a \$45.67 transaction at [REDACTED]. (Exhibit 3: EBT transaction detail)
11. On [REDACTED], 2018, the Defendant's Electronic Benefit Transfer ("EBT") card was used at 1 [REDACTED] p.m. to complete a \$55.63 transaction at [REDACTED]. (Exhibit 3: EBT transaction detail)
12. On [REDACTED] 2018, the Defendant's Electronic Benefit Transfer ("EBT") card was used at [REDACTED] a.m. to complete a \$55.23 transaction at [REDACTED]. (Exhibit 3: EBT transaction detail)
13. On [REDACTED] 2018, the Defendant's Electronic Benefit Transfer ("EBT") card was used at [REDACTED] a.m. to complete a \$55.12 transaction at [REDACTED]. (Exhibit 3: EBT transaction detail)
14. On [REDACTED], 2018, the Defendant's Electronic Benefit Transfer ("EBT") card was used at [REDACTED] a.m. to complete a \$46.03 transaction at [REDACTED]. (Exhibit 3: EBT transaction detail)
15. On [REDACTED] 2018, the Defendant's Electronic Benefit Transfer ("EBT") card was used at [REDACTED] a.m. to complete a \$55.23 transaction at [REDACTED]. (Exhibit 3: EBT transaction detail)
16. On [REDACTED] 2018, the Defendant's Electronic Benefit Transfer ("EBT") card was used at [REDACTED] a.m. to complete a \$55.23 transaction at [REDACTED]. (Exhibit 3: EBT transaction detail)
17. On [REDACTED] 2018, the Defendant's Electronic Benefit Transfer ("EBT") card was used at [REDACTED] a.m. to complete a \$46.85 transaction at [REDACTED]. (Exhibit 3: EBT transaction detail)
18. On [REDACTED] 2018, the Defendant's Electronic Benefit Transfer ("EBT") card was used at [REDACTED] a.m. to complete a \$55.23 transaction at [REDACTED]. (Exhibit 3: EBT transaction detail)
19. On [REDACTED] 2018, the Defendant's Electronic Benefit Transfer ("EBT") card was used at [REDACTED] a.m. to complete a \$55.36 transaction at [REDACTED]. (Exhibit 3: EBT transaction detail)
20. On [REDACTED] 2018, the Defendant's Electronic Benefit Transfer ("EBT") card was used at [REDACTED] a.m. to complete a \$55.36 transaction at [REDACTED]. (Exhibit 3: EBT transaction detail)

21. On [REDACTED] 2018, the Defendant's Electronic Benefit Transfer ("EBT") card was used at [REDACTED] a.m. to complete a \$55.23 transaction at [REDACTED]. (Exhibit 3: EBT transaction detail)
22. On [REDACTED] 2018, the Defendant's Electronic Benefit Transfer ("EBT") card was used at [REDACTED] a.m. to complete a \$56.05 transaction at [REDACTED]. (Exhibit 3: EBT transaction detail)
23. On [REDACTED] 2018, the Defendant's Electronic Benefit Transfer ("EBT") card was used at [REDACTED] a.m. to complete a \$46.35 transaction at [REDACTED]. (Exhibit 3: EBT transaction detail)
24. Most of the Defendant's purchase transactions were for similar dollar amounts; there were some transactions made within a few minutes of each other. (Exhibit 3: EBT transaction detail)
25. On [REDACTED], 2019, [REDACTED] was permanently disqualified from redeeming SNAP benefits. (Exhibit 7: United States Department of Agriculture letter dated [REDACTED])
26. The Defendant received \$2,334.00 per month in SNAP benefits from January 2018 through July 2018. \$1,020.35 of that was spent in similar high dollar amounts at [REDACTED]. (Exhibit 5: EBT transaction detail, Exhibit 10: benefit History)
27. On [REDACTED] 2019, the Department mailed the Appellant a letter notifying him that he had violated the SNAP regulations regarding trafficking in \$1,020.35 of his transactions from [REDACTED] 2018 through [REDACTED] 2018. The letter stated that the SNAP penalty for trafficking is a one-year disqualification from the SNAP for the first offense. (Exhibit 1: SNAP violation letter, [REDACTED]/19)
28. On [REDACTED] 2018, the Department mailed the Defendant a Notice of Prehearing Interview, form W-1448, as well as Waiver of Disqualification Hearing SNAP program, form W-1449, to the Defendant informing him to call the Bridgeport DSS to schedule an appointment before [REDACTED], 2018, to discuss the Defendant's alleged SNAP overpayment. (Exhibit's 3 and 4: W-1448, W- 1449 dated [REDACTED]/18)
29. The Defendant did not sign and return the waiver of disqualification hearing form. (Department representative's testimony)
30. The Department did contact the Defendant and told him the reason for the proposed Disqualification and the Overpayment which the Defendant responded to by saying ok. (Department's testimony)

31. The Department is seeking to disqualify the Defendant from participating in the SNAP for a period of one year and recover \$1,020.35 in overpaid SNAP benefits due to an IPV of trafficking. (Hearing record, Exhibit 2: SNAP violation letter, [REDACTED]/18)
32. The Defendant has no prior IPV's of the SNAP program. (Department representative's testimony)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes provides that the Department of Social Services be designated as the state agency for the administration of; (7) the Supplemental Nutrition Assistance Program ("SNAP") pursuant to the Food and Nutrition Act of 2008.
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.

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 ("IPV")

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, disqualified from the AFDC and/or Food Stamp programs for a specified amount of time.

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 accepted delivery of the ADH notice and did not provide good cause for failing to appear.

3. Title 7 of the CFR § 273.16(a)(1) provides that 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.

4. Title 7 of the CFR § 273.16(a)(3) provides that 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 individual 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.
5. Title 7 of the CFR § 271.2 provides that one of the definitions of trafficking is (1) The buying, selling, stealing, or otherwise affecting 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. (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.

Title 7 of the CFR § 273.16(c) defines an IPV as follows: For purposes of determining through administrative disqualification hearings whether or not a person has committed an IPV, IPV's 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. (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.

Title 7 of the CFR § 273.16(e)(6) provides 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.

UPM § 7050.30 (A) (1) provides an individual is disqualified from participating in the AFDC or Food Stamp program if: a. a court determines that he or she is guilty of intentional recipient error or grants the individual accelerated rehabilitation; or b. a determination of an intentional recipient error is made by an Administrative Disqualification Hearing official; or c. the individual signs a waiver of rights to an Administrative Disqualification Hearing.

The Department provided clear and convincing evidence the Defendant intentionally committed a violation of SNAP regulations due to engaging in the trafficking of his SNAP benefits.

6. Title 7 of the CFR § 273.16(b)(1)(i) provides that 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.

The Defendant is guilty of committing an IPV. The Department is correct to seek the disqualification of the Defendant from participating in the SNAP program for a period of one year.

7. Title 7 of the CFR § 273.18(a)(4)(i) provides that the following are responsible for paying a claim: each person who was an adult member of the household when the overpayment or trafficking occurred.

Title 7 of the CFR § 273.18 (b) provides for types of claims. There are three types of claims: (1) IPV; (2) Inadvertent household error (“IHE”) defined as any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the household; (3) Agency error (“AE”).

UPM § 7045.05(A)(1) provides that the Department recoups from the assistance unit which received the overpayment.


UPM §7045.05(A)(3) provides that if the overpayment was caused by intentional recipient error, the Department may recoup from the assistance unit containing the person who committed the intentional error.

UPM § 7045.10 (A) (3) 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 is correct to seek recoupment of \$1,020.35 in SNAP benefits from the Defendant due to trafficking violations.

DECISION

1. The Defendant is guilty of committing a SNAP IPV. The Defendant is disqualified and ineligible to participate in the SNAP for one year.
2. The Department is authorized to seek recovery of \$1,020.35 in SNAP benefits the Defendant is guilty of having trafficked during the commission of the IPV.


Thomas Monahan
Hearing Officer

C: Stephen Markowski, Director - Investigations and Recoveries, Central Office
Keith Gatling, DSS Investigations Supervisor Bridgeport
William Carrasquillo, DSS Bridgeport

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 06105-3725. 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 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.