

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

HEARING REQUEST #143894
AU [REDACTED]

CASE ID [REDACTED]
CLIENT ID [REDACTED]

ADMINISTRATIVE DISQUALIFICATION HEARING

NOTICE OF DECISION

PARTY

[REDACTED]
[REDACTED]
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED] 2019, 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 twelve (12) months, or one (1) year. The Department alleged that the Defendant committed an Intentional Program Violation (“IPV”) as a result of the Defendant’s trafficking of the SNAP benefits posted on his EBT (electronic benefit transfer) card and engaging in SNAP trafficking activities with [REDACTED]. The Department also seeks to recover the overpaid SNAP benefits of \$350.72 for the transactions that took place during the period of [REDACTED] 2018 through [REDACTED] 2018, by recouping from the Defendant’s current active SNAP case or by billing the Defendant, if his SNAP case is closed, as prescribed by policy. This is the Defendant’s first IPV offense in the SNAP program.

On [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, and scheduling a hearing for [REDACTED] 2019 @ 10:00 AM. The tracking information system of the U.S. Postal Service (“USPS”) for certified mail verified that on [REDACTED] 2019 the ADH packet was moving within the USPS network and is on track to be delivered to its final destination of the Defendant’s current address on record.

On [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.

On [REDACTED] 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:

William Carrasquillo, Representative for the Department
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], 2018. (Hearing Summary; Dept.'s Exhibit #1: Overpayment/Disqualification Letter)
2. The Defendant signed the State of Connecticut DSS W-1E Application Form acknowledging that he would not engage in the trafficking of his SNAP benefits for cash. (Hearing Summary)
3. The Department received a referral that the Defendant had violated the SNAP regulations regarding trafficking by engaging in repetitive patterns of unusual, irregular, and inexplicable EBT transactions involving [REDACTED]. (Hearing Summary)
4. The United States Department of Agriculture ("USDA")/ Food and Nutrition Services' ("FNS"), the Federal agency charged with overseeing the administration of the SNAP program, permanently disqualified [REDACTED] [REDACTED] from the SNAP program for committing trafficking violations of the SNAP regulations. (Hearing Summary; Dept.'s Exhibit #4: USDA Letter, dated [REDACTED] 18)
5. The USDA/FNS provided the Department with a list identifying the Defendant as one of the recipients involved in the SNAP trafficking activities with [REDACTED]. (Hearing Summary; Dept.'s Exhibit #3: Recipient Transaction History)
6. The Department's investigation of the Defendant's EBT transactions with Lordship Shell revealed clear and repetitive patterns of unusual, irregular, high dollar amounts,

and inexplicable transactions with [REDACTED]. (Hearing Summary; Dept.'s Exhibit #3)

7. On [REDACTED] 2019, the Department sent the Defendant a list of all his EBT transactions with [REDACTED] considered to be trafficking activities. (Hearing Summary; Dept.'s Exhibit #1: [REDACTED] 19 Letter to Defendant)
8. The Department sent the Defendant a Notice of Prehearing Interview ("W-1448") for him to come into the office to discuss the allegations of his involvement in the trafficking of his SNAP benefits with [REDACTED]. (Hearing Summary; Dept.'s Exhibit #2: W-1448)
9. The Department sent the Defendant a Waiver of Disqualification Hearing ("W-1449") for him to sign and return to the Department by [REDACTED] 2019. (Hearing Summary; Dept.'s Exhibit #2: W-1449)
10. The Department did not receive a response from the Defendant regarding the W-1448 and W-1449 that were sent to him and regarding to the proposed disqualification and repayment of the overpaid SNAP benefits. (See Facts 8 & 9; Hearing Summary)
11. The Defendant is held liable for the [REDACTED] 2018 through [REDACTED], 2018 EBT activities associated with his SNAP account as his EBT card was used to complete these transactions with [REDACTED] that are considered to be trafficking activities. (Hearing Summary)
12. The Defendant's trafficking of his SNAP benefits in exchange for cash created a willful withholding overpayment of \$350.72 for [REDACTED] 2018 through [REDACTED] 2018. (Hearing Summary; Dept.'s Exhibit #2)
13. The Defendant did not contact the Department to schedule a pre-hearing interview to discuss the allegations, and the Defendant did not sign and return the waiver form. (Hearing Summary; Dept.'s Exhibit #2)
14. A review of the Defendant's case file revealed no mitigating circumstances to substantiate that the Defendant's violation of the SNAP regulations regarding trafficking was unintentional. (See Facts # 1 to 13; Hearing Summary)
15. The Defendant has no prior IPV's of the SNAP program. (Hearing Summary; Dept.'s Exhibit #7: eDRS Inquiry)

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. "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)).
3. 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.
4. 7 CFR (Code of Federal Regulations) 271.2 provides the following definitions: Trafficking means:
 - (1) The buying, selling, stealing, or otherwise effecting 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;
 - (2) The exchange of firearms, ammunition, explosives, or controlled substances, as defined in section 802 of title 21, United States Code, for SNAP benefits;
 - (3) Purchasing a product with SNAP benefits that has a container requiring a return deposit with the intent of obtaining cash by discarding the product and returning the container for the deposit amount, intentionally discarding the product, and intentionally returning the container for the deposit amount;
 - (4) Purchasing a product with SNAP benefits with the intent of obtaining cash or consideration other than eligible food by reselling the product, and subsequently intentionally reselling the product purchased with SNAP benefits in exchange for cash or consideration other than eligible food; or
 - (5) Intentionally purchasing products originally purchased with SNAP benefits in exchange for cash or consideration other than eligible food.
 - (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.
5. 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

6. 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 for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system (access device).

7. 7 CFR 273.16(e) provides that the State agency shall conduct administrative disqualification hearings for individuals accused of Intentional Program Violation.

8. 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.

9. UPM § 7050 outlines the Administrative Disqualification Hearing process.

10. UPM § 7050.30 sets forth disqualification penalties and procedures as a result of an Intentional Program Violation.

11. The Defendant's EBT transactions for the period of [REDACTED] 2018 through [REDACTED], 2018 that were processed through [REDACTED] revealed a consistent pattern associated with the trafficking of SNAP benefits.
12. The evidence clearly and convincingly established that the Defendant intentionally committed a violation of the SNAP regulations by engaging in the trafficking of his SNAP benefits in exchange for cash, paying off store credits, or buying non-food items from [REDACTED] during the period of [REDACTED] 2018 through [REDACTED], 2018.
13. The Defendant's intentional violation of the SNAP regulations by engaging in the trafficking of his SNAP benefits in exchange for cash, paying off store credits, or buying non-food items constitutes a first offense intentional program violation of the SNAP program.
14. The Department is correct to seek the disqualification of the Defendant from participating in the SNAP program for a period of twelve (12) months.
15. The Department is correct to seek the recovery of the full amount of the overpayment of \$350.72 by recouping from the Defendant's currently active SNAP case or by billing the Defendant, if his SNAP case is closed, as prescribed by policy.

DECISION

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

[REDACTED]

Hernold C. Linton
Hearing Officer

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

William Carrasquillo, Investigator,
DSS, R.O. #30, Bridgeport

Keith Gatling, Investigations Supervisor,
DSS, R.O. #30, 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. 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.