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



ADMINISTRATIVE DISQUALIFICATION HEARING

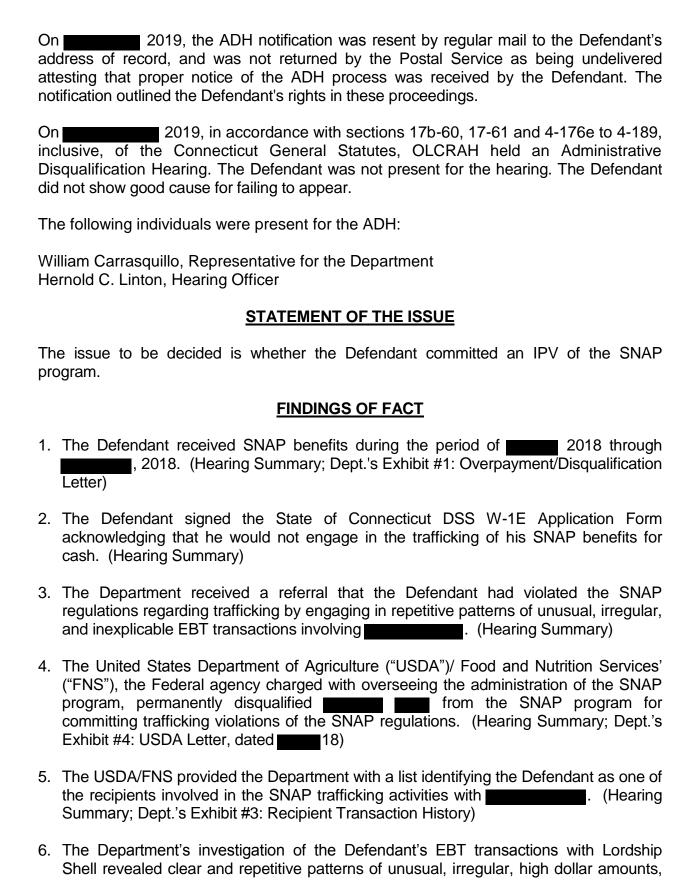
NOTICE OF DECISION

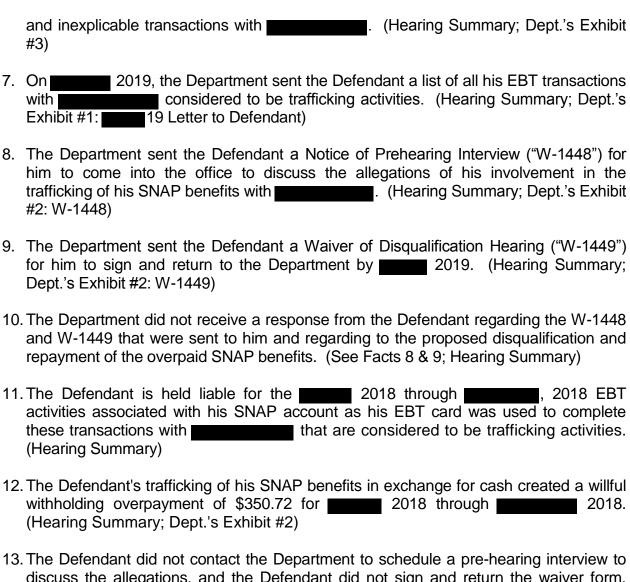
PARTY



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 Nutritiona
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 The Department also seeks to recover
the overpaid SNAP benefits of \$350.72 for the transactions that took place during the period of 2018 through 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 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 2019 @ 10:00 AM. The tracking
information system of the U.S. Postal Service ("USPS") for certified mail verified that or
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.





- 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 IPVs 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.

- "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)).
- 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 2018 through 2018 through 2018 that were processed through 2018 transactions for the period of 2018 through 2018 throug
- 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 during the period of through 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.



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.