

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

Client ID # ██████████  
Request # 143895

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 Nutritional Assistance Program ("SNAP") for a period of two (2) years. The Department alleged that the Defendant committed an Intentional Program Violation ("IPV") as a result of the Defendant's SNAP trafficking. The Department seeks to recover the overpaid SNAP benefits of \$846.21. This is the Defendant's second 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. On ██████████, 2019, OLCRAH resent the Defendant the notice of ADH, the hearing summary and supporting documents via United States first class mail. Neither the certified nor the first class mail packets were returned by the post office as of the writing of this decision. The notification outlined the Defendant's rights in these proceedings. The ADH was scheduled for ██████████ 2019.

On ██████████ 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 did not appear at the hearing. The Defendant did not show good cause for failing to appear at the hearing.

The following individuals were present at the hearing:

William Carrasquillo, Investigator, Department's Representative  
 Marci Ostroski, 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. The Defendant is a recipient of SNAP benefits. (Hearing Record)
2. The Defendant had one previous intentional program violation ruled on [REDACTED], 2016. (Ex. 7: USDA Electronic Disqualification Recipient System printout, Hearing Record)
3. The [REDACTED] located at [REDACTED], CT 0[REDACTED] is a gas station and contains minimal groceries. In addition to the prepared food, the [REDACTED] [REDACTED] sells milk, cheese, and bread. The most expensive items for sale are 36 and 24 packs of water and 12 packs of soda. It has a deli and prepared food section. There is seating and there are microwaves available. (Ex. 10: FNS form for General Store Information)
4. There are no shopping baskets or shopping carts at the [REDACTED]. At inspection the store had empty shelves, faded/missing labels, and empty/broken/unused coolers/freezers. It is a gas station with a store and a restaurant. There is a car rental space on the property. (Ex. 10: FNS form for General Store Information)
5. The Defendant conducted the following Electronic Benefits Transfer ("EBT") transactions in SNAP benefits at [REDACTED] located at [REDACTED] CT [REDACTED].

| Date          | Time    | Amount  |
|---------------|---------|---------|
| [REDACTED]/18 | 11:20AM | \$38.12 |
| [REDACTED]/18 | 8:31AM  | \$37.89 |
| [REDACTED]/18 | 7:21AM  | \$37.21 |
| [REDACTED]/18 | 7:13AM  | \$36.00 |
| [REDACTED]/18 | 6:32AM  | \$40.10 |

|           |         |         |
|-----------|---------|---------|
| ██████/18 | 6:20AM  | \$36.19 |
| ██████/18 | 6:33AM  | \$41.98 |
| ██████/18 | 6:19AM  | \$39.05 |
| ██████/18 | 10:01AM | \$48.09 |
| ██████/18 | 6:03PM  | \$35.86 |
| ██████/18 | 6:08AM  | \$38.47 |
| ██████/18 | 6:21AM  | \$45.36 |
| ██████/18 | 6:21AM  | \$45.14 |
| ██████/18 | 6:13AM  | \$37.85 |
| ██████/18 | 9:47AM  | \$44.23 |
| ██████/18 | 6:39AM  | \$49.98 |
| ██████/18 | 8:42AM  | \$14.00 |
| ██████/18 | 8:43AM  | \$45.36 |
| ██████18  | 6:43AM  | \$46.39 |
| ██████/18 | 1:20PM  | \$48.78 |
| ██████/18 | 1:50PM  | \$40.16 |

6. (Ex. 3: Recipient Transaction History, Ex. 1: Overpayment/Disqualification Letter)
7. On ██████ 2018, the United States Department of Agriculture, Food and Nutrition Services, SNAP Program ("FNS") charged ██████ located at ██████ CT ██████ with trafficking in SNAP based on analysis of their records which reflected EBT transactions that established clear and repetitive patterns of unusual, irregular, and inexplicable activity for that type of firm. (Ex. 4: USDA letter, ██████/18)
8. On ██████ 2019, the United States Department of Agriculture, Food and Nutrition Service, SNAP division ("USDA") notified ██████ located at ██████ CT ██████ that trafficking violations occurred at their business and permanently disqualified the merchant from participating in SNAP. (Ex. 5: USDA letter, ██████/19)
9. Because the USDA found ██████ located at ██████ ██████ CT ██████, guilty of trafficking in SNAP benefits, it forwarded lists of possible trafficking transactions conducted at the merchant's establishment to the Department for further investigation. The USDA considered the Defendant's transactions listed above, to be suspect because they were considered a high dollar amount for the type of store and there were multiple transactions conducted in an unusually short time frame. (Ex. 10: General Store Information, Investigator's testimony and Ex. 3: Recipient Transaction History)
10. On ██████, 2019, the Department sent the Defendant a letter advising that she was being charged with trafficking in SNAP benefits, an

- intentional program violation of the SNAP program. The letter advised the Defendant that the penalty for the first intentional program violation was disqualification from the SNAP program for one year, and two years for the second intentional program violation. (Ex. 1: Department letter, [REDACTED]/19)
11. [REDACTED] 2019, the Department sent the Defendant a Notice of Prehearing Interview advising that she was being charged with trafficking in SNAP benefits and that there was an \$846.21 overpayment related to the trafficking. The notice stated that the Defendant should contact the Department's representative by [REDACTED] 2019, if she wanted to discuss the charges and the overpayment. (Ex. 2: W1448-Notice of Prehearing Interview and W-1449 Waiver of Disqualification Hearing SNAP Program)
  12. On [REDACTED], 2019, the Department sent the Defendant a W1449 Waiver of Disqualification Hearing form. (Ex. 2: W1448-Notice of Prehearing Interview and W-1449 Waiver of Disqualification Hearing SNAP Program)
  13. The Defendant did not return the Waiver of Disqualification form and did not contact the Department to discuss the charges. (Investigator's testimony)
  14. The Defendant was not present at the hearing. The Defendant did not show good cause for failing to appear. (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(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

4. 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.
5. 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 (194) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d712(1990)).
6. 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.
7. 7 CFR §271.2 (1) provides in part that the definition of trafficking includes 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.
8. 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).
9. 7 CFR § 273.16(e)(6) defines the criteria for determining intentional program 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.
10. The Department presented clear and convincing evidence that the Defendant committed and intended to commit an intentional program violation.

11. Title 7 CFR § 273.16 (a) (3)(b)(1)(ii) states that an individual found to have committed an Intentional Program Violation shall be ineligible to participate in the Program for a period of twenty-four months upon the second occasion of any intentional Program violation
12. UPM § 7050.30B 2 b (1) (b) provides that if an intentional recipient error occurred after August 1, 1984 and 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: that for the second offense, the length of the disqualification is two years.
13. The Department is correct to seek the disqualification of the Defendant from the SNAP program for a period of two years.
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. The Department is correct in seeking recoupment of SNAP benefits of \$846.21 from the Defendant.

### **DISCUSSION**

Established at this hearing is the fact that [REDACTED], where the Defendant conducted the SNAP transactions in question located at [REDACTED], [REDACTED], CT [REDACTED], was permanently disqualified from participating in the SNAP program due to trafficking in SNAP benefits. Some of the Defendant's transactions were conducted at that establishment within the same day; in addition, each transaction is considered a large amount for the type of firm that [REDACTED] is. The evidence presented at the hearing indicates that [REDACTED], with its limited inventory and lack of shopping carts or even baskets, is a gas station with a small store and restaurant attached. There is limited inventory at the [REDACTED] store.

Given the facts that these questionable transactions occurred in an establishment that has been permanently disqualified for trafficking in SNAP benefits, I find that the evidence to be convincing that the Defendant is guilty of an intentional program violation of the SNAP program. The Defendant did not appear at the administrative hearing or offer any testimony or evidence to dispute the charges.

**DECISION**

1. The Defendant is **GUILTY** of committing a second intentional program violation in the SNAP program for trafficking of SNAP benefits. She is disqualified from the program for a period of two years.
2. With regard to the Department's request to recover the overpayment of \$846.21, the request is **GRANTED.**



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Marci Ostroski  
Hearing Officer

CC: OLCRAH.QA.DSS@ct.gov  
William Carrasquillo, DSS Investigator, 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, or 45 days after the agency denies a petition for reconsideration of this decision, provided that the petition for reconsideration was filed timely with the Department. 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.