

STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS  
55 FARMINGTON AVENUE  
HARTFORD, CT06105-3725

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

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

**NOTICE OF DECISION**

**PARTY**

██████████  
████████████████████  
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██████████  
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**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 twelve (12) months. The Department alleged that the Defendant committed an Intentional Program Violation (“IPV”). The Department further seeks to recover an alleged overpayment of SNAP benefits in the amount of \$617.89.

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. The notification outlined a Defendant's rights in these proceedings.

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 following individuals were present at the hearing:

██████████, the Defendant  
William Carasquillo, Investigator, Department’s Representative  
Roberta Gould, Hearing Officer

At the Department’s request, the hearing record was held open for the submission of additional evidence. The hearing record closed on ██████████, 2019.

## STATEMENT OF THE ISSUE

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

## FINDINGS OF FACT

1. The Defendant is receiving SNAP assistance. (Hearing record)
2. The Defendant has had no prior intentional program violations. (Hearing record)
3. On [REDACTED], 2018, the United States Department of Agriculture (“USDA”) FNS Division made a site visit to [REDACTED] located at [REDACTED] [REDACTED] CT, and found that the store was 1000 square feet, sold tobacco, health and beauty aids, household products, hot foods, breads, eggs, dairy, fresh fruits and vegetables, and also had empty, broken, unused coolers and freezers, and no shopping baskets. The store was open for business seven days per week. (Exhibit 12: Food & Nutrition Services (“FNS”) general store information/images)
4. On [REDACTED] 2018, the Defendant’s Electronic Bank Transfer (“EBT”) card was used at [REDACTED], CT to access SNAP benefits from the Defendant’s account in the amounts of \$42.28, \$39.53 and \$26.52. (Exhibit 5: EBT recipient transaction history)
5. On [REDACTED] 2018, the Defendant’s EBT card was used at [REDACTED] located at [REDACTED], CT to access SNAP benefits from the Defendant’s account in the amount of \$37.39. (Exhibit 5)
6. On [REDACTED] 2018, the Defendant’s EBT card was used at [REDACTED] located at [REDACTED], CT to access SNAP benefits from the Defendant’s account in the amounts of \$49.87, \$27.33, and \$42.14. (Exhibit 5)
7. On [REDACTED] 2018, the Defendant’s EBT card was used at [REDACTED] located at [REDACTED], CT to access SNAP benefits from the Defendant’s account in the amount of \$60.73. (Exhibit 5)
8. On [REDACTED] 2018, the Defendant’s EBT card was used at [REDACTED] located at [REDACTED], CT to access SNAP benefits from the Defendant’s account in the amount of \$51.32. (Exhibit 5)
9. On [REDACTED] 2018, the Defendant’s EBT card was used at [REDACTED] located at [REDACTED], CT to access SNAP benefits from the Defendant’s account in the amounts of \$49.57 and \$47.99. (Exhibit 5)

10. On [REDACTED] 2018, the Defendant's EBT card was used at [REDACTED] located at [REDACTED], CT to access SNAP benefits from the Defendant's account in the amounts of \$40.16 and \$20.11. (Exhibit 5)
11. On [REDACTED], 2019, the Defendant's EBT card was used at [REDACTED] located at [REDACTED], CT to access SNAP benefits from the Defendant's account in the amounts of \$42.74 and \$30.21. (Exhibit 5)
12. The Defendant receives Social Security Disability benefits and Medicaid assistance in addition to her SNAP benefits. (Defendant's testimony)
13. The Defendant does not own a motor vehicle. (Defendant's testimony)
14. [REDACTED] located at [REDACTED], CT is the closest store to the Defendant. [REDACTED] supermarket is located about one hour's walk from the Defendant's residence. (Defendant's testimony and Department's testimony)
15. On [REDACTED] 2019, [REDACTED] located at [REDACTED], CT, was permanently disqualified from participating in the SNAP program because it violated federal SNAP regulations when it participated in trafficking activities with SNAP program recipients. (Exhibit 7: USDA letter dated [REDACTED] and Hearing summary)
16. The Defendant's EBT transactions at [REDACTED] were in varied dollar amounts with multiple transactions in the same day. (Exhibit 5 and Hearing summary)
17. On [REDACTED] 2019, the Department sent the Defendant *W-1448 Notice of Prehearing Interview* and a *W-1449 Waiver of Disqualification Hearing SNAP Program*. The Defendant did not sign the forms. (Exhibit 3: W-1448 dated [REDACTED], Exhibit 4: W-1449 and Hearing summary)
18. The Defendant did not report her EBT card lost or stolen and did not report any SNAP benefits missing during the trafficking time period. (Hearing summary)

### **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. 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.”

3. Title 7 of the Code of Federal Regulations (“CFR”) 271.2 defines trafficking as:

(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 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.

**The Department did not clearly establish that the Defendant intentionally violated program rules by trafficking her SNAP benefits.**

4. Title 7 of the Code of Federal Regulations (“CFR”) § 273.16(b) provides that

For disqualification penalties, 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.
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 Connecticut Supp. 175, 178 (1994) (citing Connecticut General Statute § 17b-10; Richard v. Commissioner of Income Maintenance, 214 Connecticut 601, 573 A.2d 712 (1990)]
6. UPM § 7050.30(A) provides that 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 did not clearly establish that the Defendant committed an IPV.**

7. UPM § 7050.30(B)(2)(b) provides for the length of disqualification for the Food Stamp Program:
- If the intentional recipient error occurred on or after August 1, 1948, the length of the disqualification period as determined as follows:
- (1) The length of disqualification is the length specified by the court order if a court specifies a period of disqualification.
  - (2) 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;
- (b) for the second offense, two years; and
- (c) for the third offense, the disqualification is permanent.

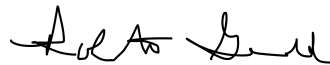
**The Defendant is not subject to a SNAP disqualification for a period of twelve months as she is not found guilty of committing an IPV.**

- 8. 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 action as conforms to federal regulations, including, but not limited to, conducting administrative disqualification hearings.”
- 9. UPM § 7045.15(D)(3) provides that “In the computation of the overpayment, the overpayment begins as of the date the factor should have been considered in the eligibility determination. In determining this date, the Department allows for the ten day notification period, if appropriate.”

**The Department is not correct to recover the amount of \$617.89 overpayment of SNAP benefits that the Defendant received for the period of [REDACTED] 2018, through [REDACTED] 2019, because it could not prove that she had trafficked her SNAP benefits.**

**DECISION**

The Department’s appeal is **DENIED**.



Roberta Gould  
Hearing Officer

PC: Stephen Markowski, Fraud & Resources, DSS Central Office  
Jordyn O’Donovan, Investigations & Recoveries, DSS Central Office  
Melinda Soisson, Investigations Supervisor, DSS Bridgeport  
William Carasquillo, Social Services Investigator, 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. 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.