

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

██████████ 2019  
Signature confirmation

Case: ██████████  
Client: ██████████  
Request: 144075

**SNAP ADMINISTRATIVE DISQUALIFICATION HEARING**

**NOTICE OF DECISION**

**PARTY**

██████████  
██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

The Department of Social Services (the “Department”) petitioned the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) to schedule an administrative disqualification hearing regarding ██████████ (the “Defendant”). The Department sought to disqualify the Defendant from receiving Supplemental Nutrition Assistance Program (“SNAP”) benefits for 12 months for alleged trafficking; the Department also sought to recover \$714.31 in SNAP benefits from the Defendant.

On ██████████ 2019, the OLCRAH issued the Defendant a *Notice of Administrative Hearing* with an *Administrative Disqualification Hearing Fact Sheet* by certified mail to his last known address. The ██████████ 2019 mailing informed the Defendant that the administrative disqualification hearing would be held on ██████████ 2019 even should he or his representative fail to appear.

On ██████████ 2019, the OLCRAH mailed the Defendant by first class mail a second copy of the *Notice* along with copies of the Department’s summary and exhibits. This mailing instructed the Defendant to contact the OLCRAH by ██████████ 2019. The Defendant did not contact the OLCRAH.

On ██████████ 2019, the OLCRAH conducted the administrative disqualification hearing in accordance with Section 273.16 (e) of Title 7 of the Code of Federal Regulations (“C.F.R.”). The following individuals participated:

William Carrasquillo, Department’s representative  
Eva Tar, Hearing Officer

The hearing officer extended the close of the hearing record for evidence through [REDACTED] 2019. Although given the opportunity to do so, the Defendant did not submit written comment for the hearing record.

### **STATEMENT OF ISSUES**

The issues to be decided by this proceeding are whether:

- 1) the Defendant committed an intentional program violation of the SNAP, permitting the Department to disqualify him from participating in the SNAP for 12 months; and
- 2) the Department may recover \$714.31 in SNAP benefits from the Defendant.

### **FINDINGS OF FACT**

1. The Defendant's client identification number is [REDACTED]. (Exhibit 7)
2. [REDACTED] (the "Merchant") is an older gas station with a small convenience store. (Department's representative's testimony)
3. On [REDACTED] 2018, the U.S. Department of Agriculture Food and Nutrition Service ("FNS") charged the Merchant with trafficking SNAP benefits. (Exhibit 4)
4. On [REDACTED], 2019, the FNS permanently disqualified the Merchant from the SNAP. (Exhibit 5)
5. The FNS provided the Defendant's client identification number to the Department as being among those associated with questionable transactions with the Merchant. (Department's representative's testimony)
6. The Department flagged 14 of the Defendant's individual Electronic Benefit Transactions ("EBTs") in the period from [REDACTED] 2018 through [REDACTED] 2018 as suspicious, based on the amounts and time stamps associated with the transactions. (Exhibit 3)(Department's representative's testimony)
7. On [REDACTED] 2019, the Department notified the Defendant in writing that it had designated \$714.31 of his SNAP EBT transactions at the Merchant in the period from [REDACTED] 2018 through [REDACTED] 2018 as consistent with trafficking. (Exhibit 1)
8. Title 7, Code of Federal Regulations ("C.F.R.") 273.15 (c) provides that within 60 days of receipt of a request for a SNAP fair hearing, the State agency shall assure that the hearing is conducted, a decision is reached, and the household and local agency are notified of the decision.

On [REDACTED] 2019 and again on [REDACTED], 2019, the OLCRAH issued a *Notice of Administrative Hearing* with an *Administrative Disqualification Hearing Fact Sheet* to the Defendant, advising him of his rights and the administrative disqualification hearing procedure. This final decision was not due until [REDACTED] 2019; this decision is timely.

## **CONCLUSIONS OF LAW**

1. The Department is designated the state agency for the administration of the supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008. Conn. Gen. Stat. § 17b-2.
2. “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....” 7 C.F.R. § 273.16 (a)(1).

“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 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.” 7 C.F.R. § 273.16 (c).

**The Department has the authority to impose administrative disqualification penalties to individuals who have intentionally committed program violations of the SNAP.**

3. Title 7, Section 271.2 of the Code of Federal Regulations defines trafficking as follows:  
*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.
- 7 C.F.R. § 271.2.

**The Department did not establish that the Defendant's SNAP transactions at the Merchant in the relevant period was trafficking, as "trafficking" is defined at Title 7, Section 271.2 of the Code of Federal Regulations.**

4. "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, intentional Program violation as defined in paragraph (c) of this section." 7 C.F.R. § 273.16 (e)(6).

If an individual is found to have committed an intentional Program violation through an administrative disqualification hearing, and it is the individual's first intentional Program violation, that individual is ineligible to participate in the SNAP for 12 months. 7 C.F.R. § 273.16 (b)(1).

**The Department did not establish by clear and convincing evidence that the Defendant committed, and intended to so commit, an intentional program violation with respect to the SNAP.**

**The Department may not disqualify the Defendant from participating in the SNAP for 12 months based on the Defendant's SNAP EBT transactions at the Merchant in the relevant period.**

5. "A recipient claim is an amount owed because of: (i) Benefits that are overpaid or (ii) Benefits that are trafficked. Trafficking is defined in 7 CFR 271.2." 7 C.F.R. § 273.18 (a)(1).

**The Department may not recover \$714.31 in SNAP benefits from the Defendant that were issued to him in the relevant period, as those benefits were not trafficked.**

#### **DECISION**

- 1) The Department's request to disqualify the Defendant from participating in the SNAP for 12 months is DENIED.
- 2) The Department may not recover \$714.31 in SNAP benefits from the Defendant that were issued to him in the relevant period.

*Eva Tar - electronic signature*  
Eva Tar  
Hearing Officer

Cc: William Carrasquillo, DSS-Bridgeport  
OLCRAH.QA.DSS@ct.gov

**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.