

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**

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

**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 one year. 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 \$909.00.

On ██████████, 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) notified the Defendant of the initiation of the ADH process via signature confirmation delivery. 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 Defendant was not present at the hearing. The Defendant did not show good cause for failing to appear.

The following individuals were present at the hearing:

Christopher Pinto, Investigator, Department’s Representative  
Roberta Gould, Hearing Officer

## 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 one year, and whether the resulting overpayment of benefits is subject to recovery.

## FINDINGS OF FACT

1. The Defendant was receiving SNAP assistance for herself. (Exhibit 1: Periodic Report form ("PRF") dated [REDACTED] and Hearing summary)
2. In [REDACTED], the Defendant gave birth to a child in the State of Virginia. (Exhibit 5: Case notes and Hearing summary)
3. On [REDACTED], the Defendant submitted a PRF with her address listed as [REDACTED], CT. She reported no changes to her circumstances. (Exhibit 1 and Hearing summary)
4. On [REDACTED], 2019, the Defendant called the Department to inquire about adding her child to her assistance. At this time she also reported her move to Virginia. (Exhibit 5)
5. The Defendant had been using her Electronic Benefits Transfer ("EBT") to access her SNAP benefits in Virginia since [REDACTED] 2019. (Exhibit 5)
6. On [REDACTED], 2019, the Department discontinued the Defendant's SNAP benefits effective [REDACTED] 2019, because she was no longer residing in the State of Connecticut. (Exhibit 5)
7. The Defendant did not report to the Department that she had moved to the State of Virginia until [REDACTED] 2019. (Exhibit 5 and Hearing summary)
8. The Defendant did not show for a pre-hearing interview scheduled for [REDACTED] 2019. (Hearing summary)
9. On [REDACTED], 2019, the Department submitted a *W-262CF Report of Suspected Intentional Program Violation Overpayment* stating that the Defendant had committed an intentional program violation that caused a SNAP overpayment in the amount of \$909.00 for the period of [REDACTED], through [REDACTED] due to moving out of state and not reporting this change to the Department. (Exhibit 4: W-262 Report of suspected intentional program violation overpayment dated [REDACTED]/2019)
10. The Defendant received SNAP assistance in the state of Connecticut from [REDACTED], through [REDACTED]. (Exhibit 6: Eligibility determination results and Hearing summary)

11. The Defendant has had no prior intentional program violations. (Hearing record)
12. There are no mitigating circumstances to substantiate that the Defendant's SNAP program violation was unintentional. (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. 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. 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 Statutes § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Connecticut 601, 573 A.2d 712 (1990))).
4. UPM § 7050.25(D)(3) provides that if the assistance unit member or his or her representative cannot be located or fails to appear at a hearing without good cause, the hearing is conducted without the assistance unit member being represented.

#### **The Defendant was not present at the hearing.**

5. 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 established that the Defendant committed an IPV when she failed to report that she had moved out of Connecticut.**

6. Title 7 of the CFR § 273.16(b)(1) 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.

7. 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.

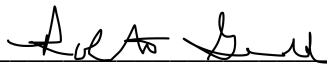
**The Department correctly determined that the Defendant is subject to a SNAP disqualification penalty. She is found guilty of committing an IPV because she made a fraudulent statement with respect to her place of residence when she completed her PRF for SNAP benefits; therefore, she is subject to a disqualification for a period of one year.**

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 correct to recover the \$909.00 overpayment of SNAP benefits that the Defendant received during the period of [REDACTED], through [REDACTED], that resulted from receiving SNAP benefits while residing outside the State of Connecticut.**

**DECISION**

The Department's appeal is **GRANTED**.

  
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Roberta Gould  
Hearing Officer

PC: Stephen Markowski, Fraud & Resources, DSS Central Office  
Amy Hayden, Investigations Supervisor, DSS Central Office  
Christopher Pinto, Investigator, DSS Hartford

## **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.