

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 # 147210

ADMINISTRATIVE DISQUALIFICATION HEARING
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 12 months. The Department alleged that the Defendant committed an Intentional Program Violation ("IPV") as a result of the Defendant's failure to report income from employment at ██████████. The Department proposes to recoup from the Defendant \$1233.00 in alleged overpaid SNAP benefits. 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. On ██████████ 2019, OLCRAH sent a letter to the Defendant asking that she contact OLCRAH within 10 days, as the certified letter was not signed for per United States Postal Services ("USPS") tracking. On ██████████, 2019, the Notice of Administrative Disqualification Hearing was returned, "Return to Sender, Attempted – Not Known, Unable to Forward by the USPS. On ██████████ 2019, the Department's Hearing Summary, Exhibits and Notice of Administrative hearing were returned to OLCRAH, Return to Sender, Attempted – Not Known, Unable to Forward by the USPS. The

notification outlined a Defendant's rights in these proceedings. The ADH was scheduled for [REDACTED], 2019.

On [REDACTED] 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 and did not provide good cause for not appearing.

The following individuals were present at the hearing:

Christopher Pinto, Department's Representative
Scott Zuckerman, Hearing Officer

STATEMENT OF THE ISSUES

1. The first issue to be decided is whether the Defendant committed an IPV in the SNAP program.
2. 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 was certified for SNAP [REDACTED] 2018, through [REDACTED], 2019. (Exhibit 6: SNAP EDG – Summary)
2. Sometime in the [REDACTED] of 2018, the Defendant reported to the Department that her employment with [REDACTED] ended. (Hearing Summary)
3. On [REDACTED] 2018, the Defendant was issued \$433.00 in SNAP benefits for a household of three. (Ex. 11: Transaction Detailed Report – State of CT, Ex. 6: SNAP EDG – Summary)
4. On [REDACTED] 2018, the Defendant received her first paycheck from [REDACTED] after returning to work. (Department's Testimony, Exhibit 4: [REDACTED] Inc Payroll Register [REDACTED] 18 to [REDACTED]/19)
5. On [REDACTED] 2018, the Defendant received her second paycheck from [REDACTED] after returning to work. (Ex. 4)
6. On [REDACTED] 2018, the Defendant submitted to the Department her Periodic Report Form ("PRF"). The Defendant answered "No" to the question, "Did your household's gross monthly earned income listed in this

- section go up or down by more than \$100.00?”. The Defendant indicated, “There is no income for this case”. (Exhibit 2: PRF received [REDACTED]/18)
7. On [REDACTED], 2018, the Department sent the Defendant a Notice of Action. The notice stated that based on the review of the PRF there would be no changes to the SNAP benefit. The notice outlined the reporting rules and stated that: You must call the Benefit Center to report the following changes to us during your SNAP period of eligibility. If your household’s total monthly gross income is more than \$2,252.00. (Exhibit 3: Notice of Action, [REDACTED]/18)
 8. In [REDACTED] 2018, the Defendant earned \$2394.51 ($\$708.38 + \$683.38 + \$541.50 + \461.25) in gross monthly income from [REDACTED]. (Exhibit 4: [REDACTED] Payroll Register)
 9. On [REDACTED] 2019, the Defendant was issued \$433.00 in SNAP benefits for a household of three. (Ex. 11: Transaction Detailed Report – State of CT, Ex .6: SNAP EDG – Summary)
 10. In [REDACTED] 2019, the Defendant earned \$1112.13 ($\$251.13 + \$410.00 + \451.00) in gross monthly income from [REDACTED]. (Exhibit 4: [REDACTED]. Payroll Register)
 11. On [REDACTED], 2019, the Defendant was issued \$433.00 in SNAP benefits for a household of three for the [REDACTED] 2019 benefit month. (Ex. 11: Transaction Detailed Report – State of CT, Ex. 6: SNAP EDG – Summary)
 12. In [REDACTED] 2019, the Defendant earned \$1527.25 ($\$430.50 + \$410.00 + \$369.00 + \317.75) in gross monthly income from [REDACTED]. (Exhibit 4: [REDACTED]. Payroll Register)
 13. On [REDACTED] 2019, the Defendant was issued \$433.00 in SNAP benefits for a household of three. (Ex. 11 Transaction Detailed Report – State of CT, Ex. 6: SNAP EDG – Summary)
 14. In [REDACTED] 2019, the Defendant earned \$1860.38 ($\$353.63 + \$481.75 + \$338.25 + \$430.50 + \256.25) in gross monthly income from [REDACTED]. (Exhibit 4: [REDACTED] Payroll Register)
 15. On [REDACTED] 2019, the Defendant was issued \$281.00 in SNAP benefits for a household of two. (Ex. 11: Transaction Detailed Report – State of CT, Ex. 6: SNAP EDG – Summary)

16. ██████ 2019, the Defendant earned \$1040.38 (\$481.75 + \$379.25 + \$179.38) in gross monthly income from ██████. (Exhibit 4: ██████ Payroll Register)
17. On ██████, 2019, the Defendant was issued \$281.00 in SNAP benefits for a household of two. (Ex. 11: Transaction Detailed Report – State of CT, Ex. 6: SNAP EDG – Summary)
18. In ██████, the Defendant earned \$3523.44 (\$430.50 + \$410.00 + \$1066.00 + \$889.19 + \$725.75) in gross monthly income from ██████ (Exhibit 4: ██████ Payroll Register)
19. In ██████ 2018, 130% of the Federal Poverty Limit for a household of three is \$2252. (Hearing Record)
20. Effective ██████ 2018, the Defendant's monthly income exceeds 130% of the Federal Poverty Level for a Household of three of \$2252.00. (Hearing Record)
21. On ██████ 2019, the Department's Fraud unit received a referral indicating the Defendant did not report changes in her earned household income from ██████ 2018, through ██████ 2019. (Ex. 12: W-262CF, Report of Suspected Intentional Program Violation Overpayment, ██████ 19)
22. The Department calculated SNAP overpayments as a result of the unreported changes.
23. The overpayments were calculated as follows:

Month	SNAP received	SNAP eligible	Overpayment
██████ 2018	\$433.00	\$0.00	\$433.00
██████ 2019	\$433.00	\$386.00	\$47.00
██████ 2019	\$433.00	\$262.00	\$171.00
██████ 2019	\$433.00	\$157.00	\$276.00
██████ 2019	\$281.00	\$256.00	\$25.00
██████ 2019	\$281.00	\$0.00	\$281.00
			Total \$1233.00

(Ex. 7: FSFI screens, Ex. 11)

24. The Department overpaid the Defendant a total of \$1233.00 in SNAP benefits for the time period ██████, 2018 to ██████ 2019 because she failed to report at her Periodic review returning to work at ██████ ██████ and the unreported income was not included in her SNAP benefit calculation. (Hearing Record)

25. The Department sent to the Defendant a Waiver of Disqualification Hearing and Notice of Pre-Hearing Interview for SNAP stating that the Defendant received \$1233.00 in SNAP benefits to which she was not entitled. The pre-hearing interview was scheduled for [REDACTED], 2019. (Hearing Record)
26. The Defendant did not attend the pre-hearing interview and did not sign the Waiver of Disqualification Hearing. (Hearing Record).
27. The Defendant has no prior intentional program violations of the SNAP program. (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. "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)).
4. Title 7 of the Code of Federal Regulations ("CFR") 273.12 (a)(1)(i)(C)(2) provides for household's responsibility to report and states that a change in the amount earned of more than \$100 a month from the amount last used to calculate the household's allotment, provided that the household is certified for no more than 6 months.
5. 7 CFR 273.12 (a)(1)(i)(H)(v) provides for reporting when gross income exceeds 130 percent of poverty and states that a household subject to simplified reporting in accordance with paragraph (a)(5)(i) of this section, whether or not it is required to submit a periodic report, must report when its gross income exceeds the monthly gross income limit for its household size, as defined at 273.9(a)(1). The household shall use the monthly gross

income limit for the household size that existed at the time of its most recent certification or recertification, regardless of any subsequent changes in its household size.

6. 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. Uniform Policy Manual (“UPM”) Section 7050 outlines the Administrative Disqualification Hearing process.
7. UPM § 7050.5(A)(2) provides an Administrative Disqualification Hearing is a hearing conducted by the Department in which the Department determines whether an AFDC or SNAP assistance unit member has caused an overpayment by committing an intentional recipient error.
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. UPM § 7005.10(C)(2)(a)(b) provides that the Department preliminarily classifies a recipient error as intentional if: the assistance unit fails without good cause to report a change affecting eligibility in a timely manner; or the assistance unit knowingly misinforms the Department regarding information affecting eligibility; or (3) the assistance unit commits an illegal act such as cashing a duplicate check after falsely claiming non-receipt of the first check; or the assistance unit or its authorized representative withdraws cash or food stamp benefits from the EBT account after they notify the Department that they need a new debit card and before the time the Department's designee deactivates the card.

A final determination of intentional recipient error is made: (1) under all programs, if a court of jurisdiction determines that the assistance unit committed the error intentionally; and (2) under the AFDC and Food Stamp programs, if the assistance unit is found guilty through the Administrative Disqualification Hearing process, or the unit waives its right to the Administrative Disqualification Hearing.

- 10.7 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.
11. "The Department acts promptly to determine the effect on eligibility or benefit level whenever changes become known to the Department." UPM § 1555.30(A)(1)

The hearing record clearly and convincingly established that the error of omitting employment in regards to the SNAP benefits was an intentional program violation.

12. UPM 7050.30(B)(2) If the intentional recipient error occurred on or after August 1, 1984, the length of the disqualification period is 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 Hearing record clearly and convincingly established that the Defendant intentionally failed to report to the Department her employment and earnings.

The Defendant's failure to report her employment and earnings in [REDACTED] 2018 on her PRF constitutes a first offense intentional program violation of the SNAP program.

The Department is correct to seek the disqualification of the Defendant from participating in the SNAP program for a period of 12 months.

- 13.7 CFR § 273.16(b)(12) even though the individual is disqualified, the household is responsible for making restitution for the amount of any overpayment.


14. 7 CFR § 273.18(g)(1)(ii) provides that for Collection of SNAP IPV overpayments limit the amount reduced to the greater of \$20 per month or 20 percent of the household's monthly allotment.
15. The Department is correct to seek recoupment of the \$1233.00 overpayment from the Defendant.

DISCUSSION

The Department met its burden to establish by clear and convincing evidence that the Defendant committed an intentional program violation pertaining to the SNAP.

DECISION

The Defendant is guilty of committing a first offense intentional program violation in the SNAP program as the Defendant knowingly did not properly report her household earnings from employment. The Department's request is GRANTED. The Department may disqualify the Defendant from participating in the SNAP for a period of 12 months and recoup the \$1233.00 overpayment.


Scott Zuckerman
Hearing Officer

C: DSS, Quality Assurance

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.