

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

REQUEST # 147214
CLIENT ID # ██████████

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 twelve (12) months. The Department alleged that the Defendant committed an Intentional Program Violation ("IPV") as a result of the Defendant's fraudulent statement on the periodic review form that he was unemployed and had no income. The Department seeks to recover SNAP benefits of \$1344 which were overpaid from ██████████ of 2018 through ██████████ of 2019. 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. The notification included the hearing summary, an outline a Defendant's rights in these proceedings and advised of the hearing date

On ██████████, 2019, the Defendant signed for the delivery of the certified mail.

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:
George Jones, Lead Investigator, DSS Investigations & Recoveries Division
Christopher Pinto, Investigator, DSS
Maureen Foley-Roy, 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. On [REDACTED] 2018, the Defendant applied for and was granted SNAP benefits in the amount of \$192 per month. The Defendant reported to the Department that he had no income and that he had no rental or utility expenses. (Exhibit 7: Case Notes and Exhibit 2: Periodic Report Form ("PRF") signed [REDACTED], 2019)
2. On [REDACTED] 2018, the Defendant was hired by Dollar Tree Stores. (Exhibit 3: Equifax Employment & Income Report)
3. On [REDACTED] 2018, the Defendant received his first paycheck in the gross amount of \$562.25. The Defendant was paid on a bi-weekly basis. (Exhibit 3)
4. On [REDACTED], 2018, the Department sent the Defendant a PRF. The form directs individuals to indicate on the form if they have new earned income, the employer's name, the amount of earnings and how often they are paid. The form also instructs individuals to return proof in the envelope with the form. (Exhibit 2)
5. On [REDACTED] 2018, the Defendant signed the form and designated that he had made no changes. He did not indicate on the form that he was employed and did not include proof of employment and earnings when he returned the form. (Exhibit 2)
6. On [REDACTED], 2018, the Defendant received gross wages of \$1021.06. (Exhibit 3)
7. On [REDACTED] 2018, the Defendant received gross wages in the amount of \$871.91. On [REDACTED], 2018, the Defendant received gross wages in the amount of \$1063.57 for total earnings of \$1935.48 for the month of [REDACTED] 2018. (Exhibit 7)

8. On [REDACTED], 2018, the Defendant received gross wages in the amount of \$1144.21. On [REDACTED], 2018,, the Defendant received gross wages in the amount of \$962 for total earnings of \$2106.21 for the month of [REDACTED] 2018. (Exhibit 3)
9. On [REDACTED] 2019, the Defendant received gross wages in the amount of \$1325.74. On [REDACTED] 2019, the Defendant received gross wages in the amount of \$749.19 for total earnings of \$2074.93 in [REDACTED] 2019. (Exhibit 3)
10. On [REDACTED] 2019, the Defendant received gross wages in the amount of \$778.96. On [REDACTED] 2019, the Defendant received gross wages in the amount of \$883.22 for total earnings of \$1662.18 in [REDACTED] of 2019. (Exhibit 3)
11. On [REDACTED], 2019, the Defendant received gross wages in the amount of \$906.36. On [REDACTED], 2019, the Defendant received gross wages in the amount of \$1130.88 and on [REDACTED] 2019, the Defendant received gross wages of \$1335.44 for total earnings of \$3372.68 in [REDACTED] of 2019. (Exhibit 3)
12. On [REDACTED] 2019, the Defendant received gross wages in the amount of \$1178.26. On [REDACTED] 2019, the Defendant received gross wages in the amount of \$1154.44 for total earnings of \$2332.70 in [REDACTED] of 2019. (Exhibit 3)
13. On [REDACTED], 2019, the Defendant received gross wages in the amount of \$1203.67. On [REDACTED] 2019, the Defendant received gross wages in the amount of \$1160.60 for total earnings of \$2364.27 in [REDACTED] of 2019. (Exhibit 3)
14. On [REDACTED] 2019, the Investigations Unit received a referral titled “regional office complaint” indicating that the Defendant had unreported income which exceeded the SNAP program’s limits. (Exhibit 1: Referral)
15. On [REDACTED] 2019, the Defendant received gross wages in the amount of \$1062.55. On [REDACTED] 2019, the Defendant received gross wages in the amount of \$1032.41 for total earnings of \$2094.96 in [REDACTED] of 2019. (Exhibit 3)
16. On [REDACTED] 2019, the Defendant received gross wages in the amount of \$1279.46. The inquiry date of the wage verification was [REDACTED] 2019 and there was no indication that the Defendant had stopped working. (Exhibit 3)
17. The Defendant is 34 years old and he does not receive disability benefits from any source. (Exhibit 2)

18. On [REDACTED] 2019, the Department sent the Defendant a notice of pre-hearing interview scheduling an appointment for the Defendant to appear in the regional office on [REDACTED] 2019. The notice advised the Defendant of the Department's determination that he had broken the rules of the SNAP program and that he had been overpaid \$1344 in benefits for failing to report wages from Labor and Staffing. The notice informed him that he was expected to repay the overpayment and that he had the right to an administrative disqualification hearing. It also advised him to appear at the prehearing interview to learn about the disqualification procedures. (Exhibit 4: Notice of PreHearing Interview)
19. On [REDACTED] 2019, the Department sent a waiver of disqualification form to the Defendant. The form notified the Defendant that the Department determined that the Defendant that he had broken the rules of the SNAP program and should be disqualified for a period of 12 months. The notice also advised the Defendant that he was over paid in the amount of \$1344 for the period from [REDACTED] 2018 through [REDACTED] 2019 and that he must repay the overpaid benefits. (Exhibit 5: W1449-Waiver of Disqualification Hearing)
20. On [REDACTED] 2019, the Defendant appeared in the regional office for the prehearing interview. He pointed out to the investigator that the notice indicated that he was employed at Labor and Staffing. The Defendant told the investigator that he had not reported his earnings from Dollar Tree Stores. The Defendant did not sign the Waiver of Disqualification form. (Hearing Summary and Investigator's testimony)
21. The Defendant has had no prior IPV's of the SNAP program. (Exhibit 8: EDS printout)
22. On [REDACTED] [REDACTED] 2019, the OLCRAH mailed a notice of administrative disqualification hearing packet which included the hearing summary and supporting documents submitted by the fraud unit at the time of the request for an administrative disqualification hearing and a notice of the hearing scheduled for [REDACTED] 2019. (Hearing Record)
23. On [REDACTED] 2019, the Defendant received the packet and notice of the hearing. (Hearing Officer Exhibit A: Certified Mail Receipt)
24. On [REDACTED] 2019, OLCRAH conducted an administrative hearing. The Defendant did not appear at the hearing and did not present good cause as to why he did not appear at the hearing. (Hearing Record)
25. The Department seeks to disqualify the Defendant from participation in the SNAP for a period of twelve (12) months due to an IPV when the Defendant

failed to report new employment at time of periodic review by excluding employment information on the documents submitted in October of 2018. (Hearing Record)

26. The Department seeks to recover \$1344 in SNAP benefits which were overpaid because the Defendant failed to follow the SNAP rules when he failed to report his employment information periodic review form. (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”) § 273.12(a)(5)(v) provides in part that the State agency may establish a simplified reporting system in lieu of the change reporting requirements specified under paragraph (a) (1) of this section. The following requirements are applicable to simplified reporting systems. 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 it’s monthly gross income exceeds the monthly gross income limit for its household size, as defined at § 273.9(a)(1).
3. Program Information Bulletin 08:06 provides that DSS has elected an option, now permitted as a result of the recently enacted Food and Nutrition Act of 2008, that all SNAP assistance units are subject to Simplified Reporting.
4. Program Information Bulletin 08:06 outlines the requirement of Simplified Reporting and provides in part that the SNAP household is required to report when the household’s total gross income exceeds 130% of the Federal Poverty Level (FPL) for the household size that existed at the last certification or the last reported change in household composition.
5. In ████████ of 2018, 130% of the FPL for a household size of one person was \$1316 per month.
6. The Appellant’s household income of \$1583.31 exceeded 130% of the FPL in ████████ of 2018.
7. Program Information Bulletin 08:06 provides that the SNAP household is required to report mandatory changes by the 10th day of the month following the month that the change occurred.

8. The Appellant's income first exceeded the 130% of the FPL in [REDACTED] of 2018. The Appellant had until [REDACTED], 2018 to report his increased income.
- 9. There is no overpayment for the month of [REDACTED] of 2018.**
10. 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.
11. 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.
12. "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 (194) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d712(1990)).
13. Uniform Policy Manual ("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.
14. UPM Section 7050.30 sets forth disqualification penalties and procedures as a result of an Intentional Program Violation.
15. 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).
16. 7 CFR § 273.16(e)(6) provides that 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.

17. Title 7 of the CFR § 273.16(c) provides that intentional program violations shall consist of having intentionally: made a false or misleading statement or misrepresented, concealed or withheld facts; or committed any act 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.
18. UPM § 7000.01 defines Intentional Recipient Error as an intentionally oral or written statement made by the assistance unit regarding circumstances affecting eligibility or the amount of benefits. An intentional recipient error is also the intentional failure by the assistance unit to report timely the receipt of income or assets or other changes in circumstances affecting eligibility or the amount of benefits.
19. UPM § 7005.10(C)(2)(a) 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
 - The assistance unit commits an illegal act such as cashing a duplicate check after falsely claiming non-receipt of the first check.
 - 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.

The hearing record established that the Defendant intentionally misrepresented his employment situation and income to the Department.

The Department provided clear and convincing evidence that the Defendant intended to commit and committed an Intentional Program Violation when he submitted the Periodic Report form on [REDACTED], 2018 without providing information about his employment or his wages.

The Defendant's failure to correctly report his income to the Department constitutes a first offense intentional program violation.

20. Title 7 CFR § 273.16 (b) (1) (i) provides for disqualification penalties and states that 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 for a period of twelve months for the first intentional Program violation.

21. UPM § 7050.30B 2 (b)(2)(a) provides that 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: for the first offense, the length of disqualification is one year.

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

22. 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.

23. The Department is correct that the Defendant is subject to recoupment requirements and is responsible for repaying the overpayment of SNAP benefits.

24. CFR § 273.18 (c)(1) (A) and (C) provide that the actual steps for calculating a claim of overpayment are to determine the correct amount of benefits for each month that a household received an overpayment and subtract the correct amount from the amount actually received.

25. UPM § 7045.15 A provides for the computation of Food Stamp Overpayments and speaks to the general description of the process. The Department computes the amount of the overpayment by comparing the amount of the benefit which the assistance unit received and cashed during a month or series of months to the amount the assistance unit should have received during that period.

The Department is correct in seeking recoupment from the Defendant in the amount of \$1152 that he received in SNAP benefits when he failed to report his employment and earnings.

DISCUSSION

On [REDACTED], 2018, when the Defendant signed his PRF indicating that he still had no income, he had been working for one month, had received one paycheck and was to receive his second paycheck within days. This is clear and convincing evidence that the Defendant intended to commit and committed an

intentional program violation. He is disqualified from the program and must repay the overpaid benefits.

However, the PRF that the Defendant signed was not due back to the Department until [REDACTED] 2019. The regulations require that an individual must report when his income exceeds the allowable limit in a month by the tenth of the following month. Therefore, as the Defendant's income first exceeded the limit in [REDACTED] of 2018, the Defendant was required to report his new job and his income during the month of November with the information impacting the benefit for December. Thus there is no overpayment for the month of [REDACTED] of 2018 and the Defendant must repay \$1152 in benefits.

DECISION

The Defendant is **guilty** of committing a first intentional program violation in the SNAP program by having made a fraudulent representation with respect to his employment and earnings while receiving SNAP benefits. He **is disqualified from the program for a period of twelve months** and **must make restitution \$1152 for the overpaid benefits.**



Maureen Foley-Roy
Hearing Officer

CC: Stephen Markowski, DSS C. O. Fraud & Resources
Angela Malena, Investigations Supervisor, DSS R.O.#10, Hartford
George Jones, DSS Investigator, R.O.# 10, Hartford

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.