

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 #147529

Client ID # ██████████

Case ID # ██████████

ADMINISTRATIVE DISQUALIFICATION HEARING
NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

The Department of Social Services (the "Department" or "DSS") 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 (1) year. The Department alleged that the Defendant committed an Intentional Program Violation ("IPV") in the SNAP program by intentionally misreporting his household composition in order to receive benefits. The Department also alleged it had a claim to recover \$1,330.00 in SNAP that was overpaid to the Defendant as a result of the commission of the IPV. The Defendant has not had any prior IPV offenses in the SNAP program.

On ██████████ 2019, the Department requested that an ADH be scheduled, alleging the Defendant committed an IPV by "Failing to report change in household comp."

On ██████████ ██████████ 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") scheduled the ADH for ██████████, 2019. Notice was sent to the Defendant of the initiation of the ADH process via certified mail to his last known address. The notification outlined a Defendant's rights in these proceedings and included the publication, *List of Legal Services in Connecticut*.

On [REDACTED], 2019, the certified mail was delivered to the intended address by USPS and left with an individual.

On [REDACTED], 2019, the certified mail was returned to USPS, and subsequently returned to sender for insufficient address.

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 following individuals were present at the hearing:

Brittany Velleca, Department's Investigator
James Hinckley, Hearing Officer

The Defendant was not present at the hearing.

STATEMENT OF THE ISSUE

1. The first issue to be decided is whether the Defendant is guilty of committing an IPV in the SNAP program by misrepresenting his circumstances in order to receive benefits, and whether he should receive a disqualification penalty as a result of the violation.
2. The second issue to be decided is whether the Department is authorized to establish a claim to recover \$1,330.00 in SNAP benefits that were overpaid as a result of the Defendant's commission of the IPV.

FINDINGS OF FACT

1. The Defendant was certified by the Department to receive SNAP for himself and one minor child for the period from [REDACTED] 2018 to [REDACTED] 2019. (Hearing Record)
2. On [REDACTED] 2018, the Department of Children and Families ("DCF") was granted an Order of Temporary Custody for the Defendant's minor child, and removed the minor child from the Defendant's home on that date and took custody of him. (Hearing Record)
3. In [REDACTED] 2018, the Department mailed the Defendant a Periodic Review Form ("PRF") that he was required to complete and submit by no later than [REDACTED], 2018, in order for his household's eligibility for SNAP to continue for the remainder of his certification period. (Hearing Record)

4. The Defendant did not submit the completed PRF to the Department by [REDACTED], 2018, and on [REDACTED], 2018, his SNAP benefits were discontinued. (Hearing Record)
5. Several pieces of mail sent to the Defendant prior to his SNAP being discontinued were returned to the Department by the USPS as undeliverable with no forwarding address. (Ex. 11: Case Notes)
6. On [REDACTED] 2018, the Defendant called the Department's Benefit Center to inquire about why his SNAP benefits ended. He refused to provide the Department with his whereabouts or address at that time. The Department updated his mailing address so that he could pick up mail at the DSS office in Middletown, the closest office location to him. The Defendant was instructed that he had to complete a PRF either online or at a local office in order to have his SNAP benefits reinstated. (Ex. 11)
7. On [REDACTED] 2018, the Defendant completed a PRF and dropped it off at the DSS office in Bridgeport. (Ex. 4: PRF date stamped at Bridgeport office)
8. The Defendant reported on the PRF that there were no changes to his household and that his minor child continued to live with him. He marked the form to indicate that he read it and made no changes. He signed and dated the form attesting that the information he gave was true to the best of his knowledge. (Ex. 4)
9. On [REDACTED] 2018, the Department processed the Defendant's PRF and reinstated his SNAP benefits effective [REDACTED] 2018. The Department made no changes to the Defendant's SNAP benefit level, in accordance with what he reported on the PRF. The Defendant was found eligible for a prorated benefit of \$317.00 for [REDACTED] 2018 and an ongoing benefit of \$353.00 monthly. (Ex. 11)
10. On [REDACTED] 2019, the State of Connecticut Superior Court for Juvenile Matters issued an order committing the Defendant's minor child to DCF and ordering DCF to be the child's guardian. The order was effective immediately and until further notice of the court. (Ex. 3: Court Order)
11. On [REDACTED], 2019, the final day of the Defendant's SNAP certification period, the Defendant completed an eligibility document to recertify his SNAP benefits. The form was completed in person at the DSS Middletown office. (Ex. 5: Completed Eligibility Document)
12. On [REDACTED], 2019, the Defendant was interviewed in person by a DSS worker and reported to the worker that his minor child lived in his household. He reported on the eligibility document that his minor child lived with him and was attending school and had completed the 2nd grade. He signed and dated the

eligibility document certifying the accuracy of the information he provided on it, and acknowledging his criminal and civil liability for knowingly giving incorrect information or failing to report something he should report. (Ex. 5)

13. The DSS worker could not complete the Defendant's SNAP recertification on [REDACTED], 2019, because the defendant had earnings from new employment that had to be verified first. (Ex. 11)
14. On [REDACTED] 2019, the DSS worker verified the Defendant's earnings and processed his SNAP recertification. The Defendant was reapproved to receive SNAP benefits for a household of two persons. The benefits were reduced to \$110.00 per month because of the Defendant's earnings of \$1,904.04 per month. (Ex. 11)
15. In [REDACTED] 2019, the Defendant verified to the Department that his employment ended. As a result, his monthly SNAP allotment for two persons increased, returning to \$353.00 beginning [REDACTED] 2019. (Ex. 11, Ex. 6: Benefit Issuance Search)
16. On [REDACTED] 2019, DSS performed a project, matching its own records with DCF records. As a result, the Department became aware that the Defendant was receiving SNAP benefits for his minor child who had been in DCF care since [REDACTED] 2018. The worker on the project referred the case to a fraud investigator because of the Defendant's failure to report the child's removal from his home. (Ex. 11)
17. Following the Department's discovery, the Defendant's minor child was removed from his SNAP award effective [REDACTED] 2019. The Defendant's SNAP benefit was lowered to \$192.00 per month effective [REDACTED] 2019, because the household now included only one person. (Hearing Record)
18. On [REDACTED] 2019, the Department's fraud investigator communicated with a DCF social worker by email who confirmed that the Defendant's minor child was removed from his home on [REDACTED] 2018. The investigator also acquired a copy of the court order committing the child to DCF guardianship effective [REDACTED] 2019. The DCF worker also informed the DSS investigator in the email that the Defendant had a new address. (Ex. 2: email exchange)
19. The Department seeks to establish a claim to recover SNAP benefits overpaid to the Defendant beginning [REDACTED] 2018, the first month he was required to report the change in household composition (on the PRF) and failed to report it, and ending [REDACTED] 2019, the final month he received a SNAP allotment that included benefits for his minor child who was not actually living in his household. (Hearing Record, Ms. Velleca's testimony)

20. In [REDACTED] 2018, instead of being entitled to a prorated benefit of \$317.00 for a household of two, the Defendant was entitled to a prorated benefit of \$173.00 for a household of one. He was overpaid \$144.00 in the month of [REDACTED] 2018 (\$317.00 - \$173.00). (Ex. 12: Pending Overpayment Summary)
21. For the months of [REDACTED] 2019 to [REDACTED] 2019, inclusive, instead of being entitled to a monthly benefit of \$353.00 for a household of two, the Defendant was entitled to a benefit of \$192.00 for a household of one. He was overpaid \$161.00 in each month, for a total overpayment of \$805.00 over the five month period ($\$353.00 - \$192.00 = \$161.00$, multiplied by 5 months = \$805.00). (Ex. 12)
22. For the months of [REDACTED] 2019 and [REDACTED] 2019, the Defendant was not entitled to a SNAP benefit. His earnings of \$1,904.04 in each of those months exceeded the SNAP gross income limit for a household of one, and the household did not meet expanded categorical eligibility requirements in either month. He was overpaid \$110.00 in each month for a total overpayment of \$220.00 for the two months. (Ex. 12, Ms. Velleca's testimony)
23. For the month of [REDACTED] 2019, instead of being entitled to a monthly benefit of \$353.00 for a household of two, the Defendant was entitled to a benefit of \$192.00 for a household of one. He was overpaid \$161.00 in the month of [REDACTED] 2019. (Ex. 12)
24. The Defendant was overpaid SNAP in the total amount of \$1,303.00 for the period from [REDACTED]. (Facts #20 to #23)
25. On [REDACTED], 2019, the investigator sent mail to the Defendant. The Department notified the Defendant that it believed he broke the rules of the SNAP program by not reporting when his child moved out of his household. An appointment was set up for [REDACTED] 2019, for the Defendant to discuss the matter with the Department. A waiver form was sent providing the Defendant the option to waive his right to an ADH and admit to the facts alleged by the Department and agree to repay the overpaid benefits. The mail was sent to the most current address provided to the investigator by the DCF social worker. (Ex. 8: W-1448 Notice of Prehearing Interview, Ex. 9: W-1449 Waiver of Disqualification Hearing, Ms. Velleca's testimony)
26. The Appellant did not appear for the pre-hearing interview scheduled for [REDACTED] 2019. The mail notifying him of the appointment and providing him with the waiver form was returned by the post office as undeliverable with no forwarding address. The Department has no better address for the Defendant. (Hearing Record, Ms. Velleca's testimony)

27. On [REDACTED] 2019, the Department requested that an ADH be scheduled for the Defendant. (Hearing Record)
28. On [REDACTED], 2019, OLCRAH sent notice of the ADH to the Defendant by certified mail to the only current address known to the Department. (Hearing Record)
29. OLCRAH's notice of the ADH by certified mail was initially accepted by a party at the address, but later returned to the USPS as undeliverable. (Hearing Record)
30. The Defendant has not committed any prior IPV's in the SNAP program. (Ex. 10: edrs query results)

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. Title 7 of the Code of Federal Regulations ("CFR") section 273.16(a)(1) provides, in pertinent part, as follows:

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....The State agency should conduct administrative disqualification hearings in cases in which the State agency believes the facts of the individual case do not warrant civil or criminal prosecution...

4. "The State agency shall base administrative disqualifications for intentional Program violations on the determinations of hearing authorities arrived at through administrative disqualification hearings in accordance with paragraph (e) of this section..." 7 CFR § 273.16(a)(3)
5. 7 CFR § 273.16(e)(3)(i) provides, in pertinent part, as follows:

The State agency shall provide written notice to the individual suspected of committing an intentional Program violation at least 30 days in

advance of the date a disqualification hearing initiated by the State agency has been scheduled. If mailed, the notice shall be sent either by first class mail or certified mail-return receipt requested. The notice may also be provided by any other reliable method. If the notice is sent using first class mail and is returned as undeliverable, the hearing may still be held.

6. 7 CFR § 273.16(e)(3)(ii) provides as follows:

If no proof of receipt is obtained, a timely (as defined in paragraph (e)(4) of this section) showing of nonreceipt by the individual due to circumstances specified by the State agency shall be considered good cause for not appearing at the hearing. Each State agency shall establish the circumstances in which non-receipt constitutes good cause for not appearing at the hearing. Such circumstances shall be consistent throughout the State agency.

7. 7 CFR § 273.16(e)(4) provides, in pertinent part, as follows:

If the household member or its representative cannot be located or fails to appear at a hearing initiated by the State agency without good cause, the hearing shall be conducted without the household member being represented. Even though the household member is not represented, the hearing official is required to carefully consider the evidence and determine if intentional Program violation was committed based on clear and convincing evidence....In instances where good cause for failure to appear is based upon a showing of nonreceipt of the hearing notice as specified in paragraph (e)(3)(ii) of this section, the household member has 30 days after the date of the written notice of the hearing decision to claim good cause for failure to appear. In all other instances, the household member has 10 days from the date of the scheduled hearing to present reasons indicating a good cause for failure to appear. A hearing official must enter the good cause decision into the record.

8. The ADH was held in accordance with the requirements in 7 CFR § 273.16(e). Notice of the ADH was sent to the Defendant by certified mail more than 30 days in advance of the hearing, to the only address known for him. The Defendant could not be located and the ADH was held without him being represented, as required by regulation. The Defendant still has the right to make a claim of good cause for failing to appear within 30 days after the date the hearing decision is issued.

9. "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 CFR § 273.16(e)(6)

10.7 CFR § 273.16(c) provides as follows:

Definition of 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 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.

11. The Defendant received SNAP benefits to which he was not entitled because of erroneous information concerning his household composition that he provided to the Department.

12. The evidence proves clearly and convincingly that when the Defendant made misstatements or misrepresentations to the Department, or failed to report his true circumstances, the acts were intentional and deliberate. There is no reasonable possibility that the misrepresentations were innocent or unintentional. On the first occasion of misrepresentation he completed a form with erroneous information and signed the form attesting to the accuracy of the erroneous information. On the second occasion six months later, he not only again signed his name attesting, falsely, that his child lived with him, but also affirmed that the false information was true in an oral interview with the Department's worker.

13. Clear and convincing evidence in the hearing record demonstrates that the Defendant committed, and intended to commit, an Intentional Program Violation in the SNAP program.

14.7 CFR § 273.16 (b)(1) provides, in pertinent part, as follows:

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....

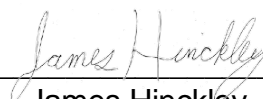
15. The Defendant has been found through this ADH to have committed his first IPV in the SNAP program. The Department must, therefore, disqualify him from participation in the program for a period of twelve months.

16. "FNS delegates to the State agency, subject to the standards in § 273.18, the authority to determine the amount of, and settle, adjust, compromise or deny all or part of any claim which results from fraudulent or nonfraudulent overissuances to participating households." 7 CFR §271.4(b)
17. 7 CFR § 273.18 provide for the authority of State agencies to establish claims to recover fraudulent overissuances of SNAP to participating households, including for benefits that were trafficked resulting from an individual committing an IPV.
18. "As a State agency, you must calculate a claim back to at least twelve months prior to when you became aware of the overpayment and for an IPV claim, the claim must be calculated back to the month the act of IPV first occurred and for all claims, don't include any amounts that occurred more than six years before you became aware of the overpayment." 7 CFR § 273.18(c)(1)
- 19. The overpayment claim the Department seeks to establish goes back at least 12 months but less than six years from when it became aware of the overpayment. The period of the requested claim is in accordance with the requirements in 7 CFR § 273.18(c)(1).**
- 20. The overpayment claim the Department seeks to establish begins as of [REDACTED]. The month the act of IPV first occurred was [REDACTED]. Even though the Defendant's child was removed from his home in [REDACTED], he was not required to immediately report the change under SNAP simplified reporting rules. His first required report of the change occurred when he misreported the information on the PRF that established his eligibility for [REDACTED] 2018. The Department correctly determined the first month in which the overpayment occurred, in accordance with the requirements in 7 CFR § 273.18(c)(1).**
- 21. The Department is authorized to establish a claim to recover \$1,330.00 in SNAP benefits overpaid to the Defendant between [REDACTED] 2018 and [REDACTED], 2019, which resulted from the Defendant's commission of an IPV.**

DECISION

1. The Defendant is **GUILTY** of committing his first IPV in the SNAP program.
2. The Department must impose a penalty disqualifying the Defendant from participation in the SNAP program for a period of twelve months.

3. The Department must establish a claim to recover \$1,330.00 in SNAP benefits overpaid to the Defendant which resulted from his commission of the IPV.



James Hinckley
Hearing Officer

cc: OLCRAH.QA.DSS@ct.gov
Brittany Velleca

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.