

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3725

██████████ 2020
Signature Confirmation

Case ID # ██████████
Client ID # ██████████
Request # 148891

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 Nutrition Assistance Program ("SNAP") for a period of twelve (12) months. The Department alleged that the Defendant committed an Intentional Program Violation ("IPV").

On ██████████ 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") sent the Defendant notice of the initiation of the ADH process scheduled for ██████████ 2019, the hearing summary, and supporting documents, via certified mail delivery. The notification outlined the Defendant's rights in these proceedings.

The notification was delivered and signed for by the Defendant on ██████████, 2019.

On ██████████, 2019, the Defendant requested a reschedule of the ADH.

On ██████████, 2019, OLCRAH rescheduled the ADH for ██████████ 2020.

On ██████████ 2019, OLCRAH rescheduled the ADH for ██████████, 2020. OLCRAH notified the Defendant of the reschedule by First Class US Postal mail. The

notification was sent to the Defendant's most recent address in [REDACTED] and his previous address in [REDACTED]. The notification sent to [REDACTED] was returned by the US Postal Service as unable to forward. The notification sent to the [REDACTED] address was not returned by the US Postal Service.

On [REDACTED] 2020, 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:

Catherine Scillia, Investigator, Department's Representative
Marci Ostroski, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Defendant committed an IPV of the SNAP program and is subject to disqualification from program participation for 12 months.

FINDINGS OF FACT

1. The Defendant was a recipient of SNAP assistance. (Hearing Record)
2. The Defendant has had no prior Intentional Program Violations. (Department's testimony).
3. The Defendant requested replacement Electronic Benefit Transfer ("EBT") cards on [REDACTED], 2018, [REDACTED], 2018, [REDACTED], 2018, [REDACTED] 2018, [REDACTED] 2018, [REDACTED], 2018, and [REDACTED], 2019. (Hearing Summary, W-262 Narrative, Ex. 4: EBT Transaction History, Ex. 2: Impact Card Replacement)
4. On [REDACTED] 2019, the Department received a referral on the Fraud Hotline reporting the Defendant's excessive EBT replacement requests. (Hearing Summary, W-262 Narrative, Ex. 7: Impact Update Referral print screen)
5. On [REDACTED] 2019, the Defendant requested a replacement EBT card. (Hearing Summary, W-262 Narrative, Ex. 4: EBT Transaction History)
6. On [REDACTED], 2019, the Department sent the Defendant a letter notifying him of excessive, 8, EBT card replacements within the last 12 months. The letter further stated that there was a possibility of an investigation for misuse or fraud if the EBT card requests continued. (Hearing Summary, W-262 Narrative)

7. On [REDACTED], 2019, the Defendant requested a replacement EBT card. (Hearing Summary, W-262 Narrative, Ex. 4: EBT Transaction History)
8. On [REDACTED], 2019, the Department sent the Defendant a letter notifying him of excessive, 9, EBT card replacements within the last 12 months. The letter further stated that there was a possibility of an investigation for misuse or fraud if the EBT card requests continued. (Hearing Summary, W-262 Narrative, Ex. 3: Notice of Excessive EBT Card Replacement)
9. On [REDACTED], 2019, the Department spoke with the Defendant and scheduled an appointment for [REDACTED], 2019, for a Pre Hearing interview for a SNAP disqualification. (Hearing Summary, W-262 Narrative)
10. On [REDACTED], 2019, the Department's investigator met with the Defendant at his home. The Defendant stated to the investigator that he sold his EBT card at times to pay his child support and other times he damaged his EBT cards. (Hearing Summary, W-262 Narrative, Department's Investigator's testimony)
11. The Defendant signed a W-1449 Waiver of Disqualification Hearing for the SNAP Program indicating that he had read the notice and wished to exercise his right to an administrative hearing. (Ex. 6: W-1449 Waiver of Disqualification Hearing for the SNAP Program)
12. The Department was unable to substantiate which SNAP benefits were sold and which cards were damaged. They are not pursuing a SNAP overpayment. (Department's Testimony)
13. The Defendant was not present at the hearing and did not show good cause for failing to appear. (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. 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.

4. The Defendant was not present at the hearing.
5. Title 7 of the Code of Federal Regulations (“CFR”) 271.2 defines trafficking as:
 - (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 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.
6. The Department established that the Defendant intentionally violated program rules by trafficking his SNAP benefits when he sold his EBT cards.
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.
- 8. 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.
- 9. The Department established that the Defendant committed an IPV.
- 10. UPM § 7050.30(B)(2)(b) provides for the length of disqualification for the Food Stamp Program. If the intentional recipient error occurred on or after August 1, 1984, the length of the disqualification period as 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.
- 11. The Defendant is subject to a SNAP disqualification for a period of twelve months as he is found guilty of committing a first IPV.

DECISION

The Defendant is **GUILTY** of committing a first intentional program violation in the SNAP program by trafficking. The Department's request that the Defendant be disqualified and ineligible to participate in the program for a period of one year is **GRANTED**


Marci Ostroski
Hearing Officer

CC: OLCRAH.QA.DSS@ct.gov
Catherine Scillia, Fraud Investigator

RIGHT TO APPEAL

The defendant has the right to appeal this decision to Superior Court within 45 days of the mailing of this decision, or 45 days after the agency denies a petition for reconsideration of this decision, provided that the petition for reconsideration was filed timely with the Department. 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.