

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

Client ID # ██████████  
SNAP AU # ██████████  
Request # 149411

**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 one (1) year. The Department alleged that the Defendant committed an Intentional Program Violation ("IPV") because he did not report his income. The Department seeks to recover the overpaid SNAP benefits of \$1152.00. 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 and outlined a Defendant's rights in these proceedings and advised of the hearing date and time.

On ██████████ 2019, the notification and hearing notice sent via certified mail was not picked up by the Defendant. OLCRAH re-issued the notice to the Defendant regarding the initiation of the ADH process via regular first class 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, Investigator, Department's Representative  
 Almelinda McLeod, Hearing Officer

### **STATEMENT OF THE ISSUE**

The first issue to be decided is whether the Defendant committed an IPV of the SNAP program and subject to 12 month disqualification.

The second issue to be decided is whether the Department's proposal to recoup \$1152.00 in SNAP overpayment is correct.

### **FINDINGS OF FACT**

1. On [REDACTED] 2018, the Defendant submitted a W-1E application for SNAP benefits. The Defendant reported he had no income and no shelter obligation. ( Exhibit 3, W-1E application)
2. The Defendant resides at [REDACTED] (Hearing Summary, Exhibit 3)
3. The defendant is a household of one. (Hearing record)
4. On [REDACTED], 2018, the Department issued a Notice of Action ("NOA") to the defendant notifying him that he was found eligible for SNAP benefits receiving a prorated benefit SNAP amount of \$134.00 effective [REDACTED] [REDACTED] 2018 and \$192.00 effective [REDACTED] [REDACTED] 2018 going forward. (Exhibit# 4, NOA)
5. The [REDACTED], 2018 NOA explained the SNAP rules regarding reporting requirements specifically a change to his gross monthly income exceeding \$1316.00 per month, must report by the 10<sup>th</sup> day of the month following the month of change. (Exhibit 4)
6. On [REDACTED] 2019, the defendant was hired by [REDACTED]. (Exhibit 5, Equifax, Work Number verifier)
7. On [REDACTED] 2019, the Defendant received his first check in the amount of \$ 591.46. The Defendant was paid weekly. ( Exhibit 5)
8. In the month of [REDACTED] 2019, the Defendant received gross wages totaling \$1236.63. [REDACTED]/19-\$739.38, [REDACTED]/19-\$497.25 ] (Exhibit 5)

9. In the month of [REDACTED] 2019, the Defendant received gross wages totaling \$2353.01. [REDACTED]19-\$617.50, [REDACTED]19-\$593.13, [REDACTED]19-\$612.63, [REDACTED]19-\$529.75] [REDACTED] 2019 is the month where the Defendant's gross income exceeded \$1316.00. (Exhibit 5 and Hearing record)
10. [REDACTED], 2019 is the 10<sup>th</sup> day following the month of change. (Hearing summary)
11. On [REDACTED], 2019, the Defendant submitted an online Periodic Report Form ("PRF"); where he reports "There is no income for this case". (Exhibit 6, Online PRF)
12. In the month of [REDACTED] 2019, the Defendant received gross wages totaling \$2849.88. [REDACTED]19- \$127.88, [REDACTED]19-\$598.00, [REDACTED]19-\$688.00, [REDACTED]19-\$748.00, [REDACTED]19-\$688.00]. ( Exhibit 5)
13. In the month of [REDACTED] 2019, the Defendant received gross wages totaling \$3328.00. [REDACTED]19-\$850.00, [REDACTED]19-\$778.00, [REDACTED]19-\$820.00, [REDACTED]19-\$880.00]. (Exhibit 5)
14. In the month of [REDACTED] 2019, the Defendant received gross wages totaling \$1718.00. [REDACTED]19-\$822.00, [REDACTED]19-\$896.00 ] ( Exhibit 5)
15. In the month of [REDACTED] 2019, the Defendant received gross wages totaling \$2500.00. [REDACTED]19-\$640.00, [REDACTED]19-\$596.00, [REDACTED]19-\$612.00, [REDACTED]19-\$652.00]. (Exhibit 5)
16. In the month of [REDACTED] 2019, the Defendant received gross wages totaling \$3258.00. [REDACTED]19-\$670.00, [REDACTED]19-\$632.00, [REDACTED]19-\$658.00, [REDACTED]19-\$682.00, [REDACTED]19-\$616.00]. (Exhibit 5)
17. In the month of [REDACTED] 2019, the Defendant received gross wages totaling \$ 1606. [REDACTED]19-\$628.00, [REDACTED]19-\$978.00] (Exhibit 5)
18. From [REDACTED] 2019 to [REDACTED] 2019, the Department deposited \$192.00 per month into the Defendant's Electronic Benefit (EBT) account. (Exhibit 8, Benefit Issuance)
19. The Department determined that the Defendant was overpaid SNAP benefits effective [REDACTED] 2019 to [REDACTED] 2019 totaling \$1152.00. [\$192.00 SNAP benefits x 7 months]. (Hearing record)
20. On [REDACTED] [REDACTED], 2019, the Department issued a W-1448 Notice of Prehearing Interview scheduling an appointment at the Greater Hartford Regional Office, 20 Meadow Road, Windsor, CT at 10:00 am. This notice advised the Defendant that he broke the rules of the Food stamp program

- on purpose and that he was overpaid \$1152.00 in SNAP benefits for failing to report income. The Defendant is advised to contact the Department to discuss the charges and the overpayment. (Exhibit 10, W-1448)
21. On [REDACTED] 2019, the Department issued a W-1449 Waiver of Disqualification SNAP program; which provides the Defendant with the option of giving up their right to an administrative hearing. The form notified the Defendant that when rules are broken on purpose, it's called an intentional program violation ("IPV"). It specified the IPV SNAP overpayment was \$1152.00 for the period from [REDACTED] 2019 to [REDACTED] 2019. The form also noted that the Defendant would be disqualified for a period of 12 months. (Exhibit 11, W-1449)
  22. The Department confirmed through the Electronic Disqualified Recipient System ("E-DRS") that the Defendant has had no prior IPV's of the SNAP program. (Exhibit 12, E-DRS print –out.)
  23. The Defendant did not contact the Department in response to the proposed disqualification letters; the W-1448, notice of Pre-Hearing interview or W-1449 Waiver of Disqualification Hearing letters sent to the Defendant by the Department issued on [REDACTED] 2019. (Hearing record)
  24. The Department had not received any returned mail from the Defendant. (Department testimony)
  25. On [REDACTED] OLCRAH sent the Administrative Disqualification hearing and the Department's hearing summary to the Defendant to his address of record to [REDACTED] via certified mail. (Hearing Officer's Exhibit A: Certified Mail packet , receipt and USPS tracker)
  26. As of [REDACTED], 2019, OLCRAH received the return certified mail receipt; however the certified mail had not been claimed by the Defendant. (Hearing Officer's Exhibit A: Certified Mail packet and receipt)
  27. On [REDACTED], 2019, OLCRAH manually sent the Administrative Disqualification hearing along with the Department's hearing summary to the Defendant by regular U.S. postal service. (Hearing Officer's Exhibit B, copy of envelope)
  28. As of [REDACTED] [REDACTED] 2019, OLCRAH has not received the returned Administrative Hearing sent by certified mail or the Administrative hearing packet sent by regular US postal service. (Hearing record)

29. [REDACTED] 2019, OLCRAH conducted an administrative hearing. The Defendant was not present for the Administrative Disqualification Hearing and did not show good cause for failing to appear. (Hearing record)
30. The Department seeks to disqualify the Defendant from participation in the SNAP program for a period of twelve (12) months due to the IPV of not reporting earnings on [REDACTED] 2019 the 10<sup>th</sup> day after his income exceeded \$1316 and [REDACTED] 2019, when he submitted his PRF and claimed no income. (Hearing record)
31. The Department also seeks to recover \$1152.00 in SNAP benefits which were overpaid because the Defendant failed to report his employment to the Department. (Hearing record)

### CONCLUSIONS OF LAW

1. Section 17b-2 (7) 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 (a) (5) (i) of this section, whether its 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 outlines the requirements 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.
4. **As of [REDACTED] 2018, 130% of the FPL for a household of one is \$1316.00 per month.**
5. **The Defendant's household income of \$2353.01 in the month of [REDACTED] 2019 exceeded the 130% FPL of \$1316.00.**
6. Program Information Bulletin 08:06 provides that the SNAP household is required to report mandatory changes by the 10<sup>th</sup> day of the month following the month that the change occurred.

7. **The Defendant's income first exceeded the 130% FPL in [REDACTED] 2019. The Defendant had until [REDACTED] 2019 to report his increased income.**
8. **The Defendant failed to report his increased income by [REDACTED] 2019.**
9. 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.
10. 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 Conn. Supp. 175 178 (194) (citing Conn. Gen. § 17b-10; *Richard v. Commissioner of the Income Maintenance*, 214 Conn. 601, 573 A. 2d712 (1990)).
11. UPM Section 7050 outlines the Administrative Disqualification Hearing process.
12. 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.
13. 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.
14. **The Department did not receive returned mail of either the W-1448 or W-1449 from the Defendant.**
15. **OLCRAH did not receive returned mail of either the ADH sent by certified or by regular mail to the Defendant.**
16. **The Defendant does not have good cause for failing to appear for the ADH.**
17. Title 7 CFR § 273.16 (a) (3)(b)(1)(i) states that an individual 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.

18. UPM § 7050.15 (A) provides an individual has the option to waive his or her rights to an Administrative Disqualification Hearing.
19. UPM § 7050.15 (B) provides in relevant part the Department provides the Individual with a waiver form to waive his or her right to the Administrative Disqualification Hearing. The form shall consists of: 1. the date by which the waiver must be signed by the individual and received by the Department to avoid holding the hearing; 2. a statement that the head of the assistance unit must also sign the waiver if this person is not the individual being investigated; 3. a statement of the right of the individual to remain silent and avoid self-incrimination; 4. an option to select admission or denial of guilt; 5. a place for the signature of the individual; 7. the fact that the waiver will result in disqualification of the individual and in reduced benefits for the remaining assistance unit, even if the individual does not admit guilt.
20. **The Defendant did not respond, signed nor returned the W-1449 Waiver of Disqualification Hearing form issued by the Department on [REDACTED] 2019.**
21. Title 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).
22. Title 7 CFR § 273.16 (e) (6) defines the criteria for determining intentional program 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.
23. **The Department has provided clear and convincing evidence that the Defendant committed and intended to commit an IPV.**

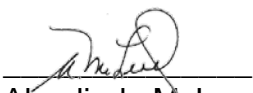
**The Defendant withheld his income information from the Department and then failed to report when his income exceeded the 130% FPL by [REDACTED] [REDACTED] 2019. In addition, the Defendant misrepresented his circumstances when he reported that there was no income in his case in the PRF submitted to the Department on [REDACTED] 2019.**

24. UPM § 7050.30 sets forth disqualification penalties and procedures as a result of an Intentional Program Violation.
25. UPM § 7050.30B 2 b (1) (a) provides that if an intentional recipient error occurred after August 1, 1984 and the court order does not specify a period of disqualification, the Department determines that for the first offense, the length of the disqualification is one year.
26. **The Department is correct to seek the disqualification of the Defendant from the SNAP program for a period of one year.**
27. 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.
28. **The Department is correct in seeking recoupment of SNAP benefits of \$1152.00 from the Defendant.**

### **DECISION**

The Defendant is guilty of committing a first IPV in the SNAP program; thus a disqualification of a period of 1 year from the SNAP program is appropriate.

The Defendant must make restitution of the SNAP overpayment in the amount of \$1152.00.

  
Almelinda McLeod  
Hearing Officer

CC: Stephen J. Markowski, DSS Director of Investigations and Recoveries  
Angela Malena, DSS Investigations Supervisor  
George L. Jones, DSS CFIU Lead 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. 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.