

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

██████████ 2020
Signature confirmation

Case: ██████████
Client: ██████████
Request: 149671

ADMINISTRATIVE DISQUALIFICATION HEARING

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

The Department of Social Services (the “Department”) filed a request with the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) to schedule a Supplemental Nutritional Assistance Program (“SNAP”) administrative disqualification hearing for the purpose of barring ██████████ (the “Defendant”) from participating in the SNAP for 12 months.

On ██████████ 2019, the OLCRAH issued a *Notice of Administrative Hearing* to the Defendant by certified mail to her mailing address, with a copy of the Department’s Administrative Disqualification Hearing Summary and exhibits. The *Notice* in part stated that an administrative disqualification hearing would be held on ██████████ 2020 and a decision issued, even should the Defendant not appear. The U.S. Postal Service website indicated “Notice Left (No Authorized Recipient Available)” for the ██████████ 2019 attempt at delivery of the certified mailing. The U.S. Postal Service again attempted to deliver the certified mailing to the Defendant on ██████████ 2019 and ██████████ 2019; these attempts were unsuccessful.

On ██████████ 2019, the OLCRAH mailed a copy of the *Notice* and documents to the Defendant at the same address by first class mail, with the instructions to the Defendant to contact the OLCRAH by telephone by ██████████ 2020. As of ██████████ 2020, the Defendant had not contacted the OLCRAH, and the first class mailing had not been returned to the OLCRAH as undeliverable.

On [REDACTED] 2020, the OLCRAH conducted a SNAP administrative disqualification hearing, in accordance with Title 7, Code of Federal Regulations (“C.F.R.”) § 273.16 and Connecticut General Statutes § 17b-88.

The Defendant did not appear for the [REDACTED] 2020 administrative disqualification hearing and did not contact the OLCRAH to request a postponement. The following individuals participated at the proceeding:

Nick Coco, Department’s representative
Eva Tar, Hearing Officer

The hearing record closed [REDACTED] 2020.

STATEMENT OF ISSUE

The issue is whether the Defendant committed an intentional program violation of the SNAP, permitting the Department to disqualify her from participating in that program for 12 months.

The Department also seeks affirmation of its intent to recover \$959.00 in SNAP benefits from the Defendant for an alleged overpayment of SNAP benefits issued to her from [REDACTED] 2018 through [REDACTED] 2018.

FINDINGS OF FACT

1. The Department issued SNAP benefits to the Defendant for the following individuals: the Defendant, [REDACTED] (the “second adult”), and the Defendant’s two children. (Exhibit 3)
2. From [REDACTED] 2017 through [REDACTED] 2018, the Defendant received SNAP benefits for a four-person household. (Exhibit 3)(Exhibit 1)(Exhibit 6)
3. From [REDACTED] 2017 through [REDACTED] 2018, the second adult was in prison. (Exhibit 2)
4. From [REDACTED] 2017 through [REDACTED] 2018, the second adult was not a member of the Defendant’s household.
5. On [REDACTED] 2018, the second adult reported his release from prison to the Department during an in-person visit to its New Britain office. (Department representative testimony)
6. On [REDACTED] 2017, [REDACTED] 2018, [REDACTED] 2018, and [REDACTED] 2018, the Defendant reported to the Department that that the second adult continued to reside with the Defendant. The Defendant did not report that the second adult was absent from her home. (Exhibit 3)
7. The Department’s records indicate that the Defendant had not been previously sanctioned for an intentional program violation with respect to the SNAP. (Exhibit 7)

8. The Department is waiving recovery from the Defendant for ██████ 2017, ██████ 2017, and ██████ 2017 SNAP benefits that had been issued to the Defendant for the second adult. (Department representative's testimony)
9. The Department is seeking recovery from the Defendant for the SNAP benefits that had been issued to the Defendant for the second adult from ██████ 2018 through ██████ 2018. (Department representative's testimony)(Exhibit 4)
10. From ██████ 2018 through ██████ 2018, the Defendant received \$959.00 in SNAP benefits for the second adult. (Exhibit 4)
11. The issuance of this decision is in accordance with Title 7, Code of Federal Regulations ("C.F.R.") § 273.16 (e)(2)(iv), which provides in part that "within 90 days of the date the household member is notified in writing that a State or local hearing initiated by the State agency has been scheduled, the State agency shall conduct the hearing, arrive at a decision and notify the household member and local agency of the decision...."

As the ██████ 2019 first class mailing was not returned by the U.S. Postal Service to the OLCRAH as undeliverable, the issuance of this decision would have been due no later than ██████ 2020. This decision therefore is timely.

CONCLUSIONS OF LAW

1. The Department of Social Services is designated as the state agency for the administration of the supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008. Conn. Gen. Stat. § 17b-2.
2. Disqualification for intentional Program violation with respect to the SNAP is addressed at Title 7, Code of Federal Regulations ("C.F.R.") § 273.16.

Subsection (a)(1) of 7 C.F.R. § 273.16 provides:

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. Administrative disqualification procedures or referral for prosecution action should be initiated by the State agency in cases in which the State agency has sufficient documentary evidence to substantiate that an individual has intentionally made one or more acts of intentional Program violation as defined in paragraph (c) of this section....

7 C.F.R. § 273.16 (a)(1).

Section 17b-88 of the Connecticut General Statutes in part instructs the Department to "take such other action as conforms to federal regulations, including, but not limited to, conducting administrative disqualification hearings for cases involving alleged fraud in the food stamp program, supplemental nutrition assistance program...." when a beneficiary of such program "receives any award or grant over the amount to which he is entitled to receive under the laws governing eligibility." Conn. Gen. Stat. § 17b-88.

The Department has the authority under state statute and federal regulations to conduct an administrative disqualification hearing to address program violations of the SNAP.

3. "Certified change reporting households are required to report the following changes in circumstances: ... (ii) All changes in household composition, such as the addition or loss of a household member." 7 C.F.R. 273.12 (a)(1)(ii).

"Certified households must report changes within 10 days of the date the change becomes known to the household, or at the State agency's option, the household must report changes within 10 days of the end of the month in which the change occurred..." 7 C.F.R. § 273.12 (a)(2).

As a condition of participation in the SNAP, the Defendant was obligated to timely report to the Department the absence of the second adult from her household.

The Defendant had until [REDACTED] 2017, or 10 days from the end of [REDACTED] 2017, to report to the Department that the second adult was no longer residing in her home.

4. "*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." 7 C.F.R. § 273.16 (c).

The Defendant committed an intentional Program violation of the SNAP, as she intentionally made a false or misleading statement by reporting to the Department on [REDACTED] 2017, [REDACTED] 2018, [REDACTED] 2018, and [REDACTED] 2018 that the second adult continued to be a member of her household when, in fact, he had been incarcerated since [REDACTED] 2017.

5. Section (b)(1) of 7 C.F.R. § 273.16 provides:
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.7 C.F.R. § 273.16 (b)(1).

“The disqualification period shall begin no later than the second month which follows the date the individual receives written notice of the disqualification. The disqualification period must continue uninterrupted until completed regardless of the eligibility of the disqualified individual's household.” 7 C.F.R. § 273.16 (b)(13).

The Department may disqualify the Defendant from participating in the SNAP for 12 months for committing a first intentional Program violation.

6. “If the State agency discovers that the household failed to report a change as required by paragraph (a) of this section and, as a result, received benefits to which it was not entitled, the State agency shall file a claim against the household in accordance with §273.18....” 7 C.F.R. § 273.12 (d).

7 C.F.R. § 273.18 addresses claims against households and how those claims are calculated.

The Department may file a claim against the Defendant to recover SNAP benefits that her household received for a non-household member.

The Department may initiate recovery of \$959.00 in excess SNAP benefits that had been issued to the Defendant for the second adult, a non-household member, from [REDACTED] 2018 through [REDACTED] 2018.

DECISION

The Department’s request to disqualify the Defendant from participating in the SNAP for 12 months is GRANTED.

The Department may initiate recovery of \$959.00 for SNAP benefits issued to the Defendant for a second adult who was not residing with the Defendant from [REDACTED] 2018 through [REDACTED] 2018.

Eva Tar - electronic signature
Eva Tar
Hearing Officer

Cc: Nick Coco, DSS-New Britain
OLCRAH.QA.DSS@ct.gov

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.