

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 # ██████████
Case ID # ██████████
Request # 150155

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 ten (10) years. The Department alleged that the Defendant committed an Intentional Program Violation ("IPV") as a result of the Defendant receiving SNAP in the states of New York and Connecticut concurrently for the period of ██████████ 2018 through ██████████, 2018. The Department seeks to recover the overpaid SNAP benefits of \$1356.00 for the period of ██████████, 2018 through ██████████, 2018, by billing the Defendant as prescribed by policy, as the Defendant is no longer receiving SNAP benefits. This would be 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 certified mail was received by the Department on ██████████, 2019. The Defendant was receiving mail at the Department's ██████████ regional office. The notification outlined a Defendant's rights in these proceedings.

On ██████████ 2019, OLCRAH sent the notification of ADH via regular mail. The ADH was scheduled for January 30, 2020.

On ██████████, 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:

Richard Yuskas, Representative for the Department
Scott Zuckerman, 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 disqualify the Defendant from participating in the SNAP program for a period of ten years is correct.

The third issue to be decided is whether the Department's proposal to recoup a SNAP overpayment of \$1356.00 is correct.

FINDINGS OF FACT

1. On [REDACTED] 2016, the Defendant began receiving SNAP benefits in New York City. (Hearing Record)
2. On [REDACTED] 2018, the Defendant was issued \$192.00 in SNAP benefits for a household of one by the State of New York. (Exhibit 5: NY SNAP issuance [REDACTED]/18 through [REDACTED]/19)
3. On [REDACTED], 2018, the Defendant submitted an online application for SNAP benefits to the State of Connecticut DSS. The Defendant answered "No" to residing at previous address in the past 60 months. (Exhibit 3: Case Notes, Exhibit 9: Application, [REDACTED]/18)
4. On [REDACTED], 2018, the Defendant was issued \$217.00 in SNAP benefits for a household of one by the State of Connecticut. (Exhibit 7: Benefit Issuance Search)
5. On [REDACTED] 2018, the Defendant was issued \$192.00 in SNAP benefits for a household on one by the State of Connecticut. (Exhibit 7: Benefit Issuance Search)
6. On [REDACTED] 2018, the Defendant was issued \$192.00 in SNAP benefits for a household of one by the State of New York. (Exhibit 5: NY SNAP issuance [REDACTED]/18 through [REDACTED]/19)
7. On [REDACTED] 2018, the Defendant was issued \$192.00 in SNAP benefits for a household on one by the State of Connecticut. (Exhibit 7: Benefit Issuance Search)

8. On [REDACTED] 2018, the Defendant was issued \$192.00 in SNAP benefits for a household of one by the State of New York. (Exhibit 5: NY SNAP issuance [REDACTED]18 through [REDACTED]/19)
9. On [REDACTED] 2018, the Defendant was issued \$192.00 in SNAP benefits for a household on one by the State of Connecticut. . (Exhibit 7: Benefit Issuance Search)
10. On [REDACTED] 2018, the Defendant was issued \$192.00 in SNAP benefits for a household of one by the State of New York. (Exhibit 5: NY SNAP issuance [REDACTED]/18 through [REDACTED]/19)
11. On [REDACTED] 2018, the Defendant was issued \$192.00 in SNAP benefits for a household on one by the State of Connecticut. (Exhibit 7: Benefit Issuance Search)
12. On [REDACTED] 2018, the Defendant was issued \$192.00 in SNAP benefits for a household of one by the State of New York. (Exhibit 5: NY SNAP issuance [REDACTED]/18 through [REDACTED]/19)
13. On [REDACTED] 2018, the Defendant was issued \$192.00 in SNAP benefits for a household of one by the State of New York. (Exhibit 5: NY SNAP issuance [REDACTED] 18 through [REDACTED] 19)
14. On [REDACTED] 2018, the Defendant was issued \$179.00 in SNAP benefits for a household on one by the State of Connecticut. (Exhibit 7: Benefit Issuance Search)
15. On [REDACTED] 2018, the Defendant was issued \$192.00 in SNAP benefits for a household on one by the State of Connecticut. (Exhibit 7: Benefit Issuance Search)
16. On [REDACTED] 2018, the Defendant was issued \$192.00 in SNAP benefits for a household of one by the State of New York. (Exhibit 5: NY SNAP issuance [REDACTED]/18 through [REDACTED]/19)
17. From [REDACTED] 2018 through [REDACTED] 2018, the Appellant used her Connecticut Electronic Benefit Transfer (“EBT”) card to purchase food in the State of New York. (Exhibit 6: Transaction Detailed Report, State of Connecticut)
18. From [REDACTED], 2018 through [REDACTED]8, 2018, the Appellant used her New York EBT card for purchases in the State of New York. (Exhibit 4: New York EBT Transaction Report)
19. From [REDACTED] 2018 through [REDACTED], 2018, all EBT SNAP transactions were in New York City. (Exhibit 4: New York EBT Transaction report and Exhibit 6: Transaction Detailed Report, State of Connecticut)
20. On [REDACTED], 2019, the Department, after receiving an interstate match from New York, made a referral to the investigations unit to for a suspected intentional program violation of receiving concurrent SNAP benefits in two states. (Hearing Summary,

Exhibit 1: Update Referral screenprint, Exhibit 11: W-262CF, Report of Suspected Intentional Program Overpayment)

21. On [REDACTED] 2019, the Department mailed the Appellant a W-1449, Waiver of Disqualification Hearing SNAP Program. The notice informed the Defendant that she violated the SNAP program rules on purpose. The notice stated that people who lie about who they are, or where they live so they can get more than on SNAP award are disqualified for ten years. The notice informed the Defendant that the IPV caused a SNAP overpayment of \$1356.00 for the period of [REDACTED] 2018 through [REDACTED] 2018. The Department proposes to impose a SNAP penalty and disqualify the Defendant from SNAP for 10 years. The Department contacted the Defendant by phone on two occasions to discuss the charges, the Defendant ended the calls when the Department began discussing the penalty and overpayment. (Hearing Summary, Exhibit 8: W-1449, [REDACTED]/19)
22. The Defendant has no prior SNAP IPV's (Exhibit 10: Electronic Disqualification Recipient System ["edrs"] query)
23. The Defendant did not sign the waiver form. (Exhibit 8: W-1449, Waiver of Disqualification Hearing SNAP Program, Department's testimony)

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. UPM § 7050 outlines the Administrative Disqualification Hearing process.
4. UPM Section 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.

The Department mailed the Defendant proper notice of the hearing. The Defendant did not discuss the issue with the Department when contacted by phone. The Defendant and was not present at the hearing. The Defendant did not show good cause for failing to appear.

5. UPM § 7050.30 sets forth disqualification penalties and procedures as a result of an Intentional Program Violation.

6. 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.
7. 7 CFR 273.16 (b)(1) 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 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. 7 CFR 273.16(b)(5) identifies the disqualification penalties as follows: Except as provided under paragraph (b)(1)(iii) of this section, an individual found to have made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple SNAP benefits simultaneously shall be ineligible to participate in the Program for a period of 10 years.
9. UPM § 7050.30(B)(2)(f) provides that if the individual is found to have made a fraudulent statement or representation with respect to identity and residence in order to receive multiple benefits simultaneously, the disqualification is for a period of ten years.
10. 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 or ATP's.
11. 7 CFR 273.16(e)(6) defines the criteria for determining intentional program violation 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.

12.7 CFR 273.18 (b)(1) defines types of claims against households and states in part that an Intentional Program violation (IPV) claim is any claim for an overpayment or trafficking resulting from an individual committing an IPV. An IPV is defined in §273.16.

13.7 CFR 273.18(c)(1)(i) discusses calculating the claim amount for claims not related to trafficking and states in part that the state agency 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.

In [REDACTED] 2019, the Department became aware of the Defendant's IPV having been active on SNAP in New York since [REDACTED] 2016 and receiving SNAP in Connecticut concurrently from [REDACTED] 2018 through [REDACTED] 2018.

The Defendant intentionally misrepresented her residence when she claimed on her application that she was homeless in Connecticut, in order to receive benefits concurrently with her New York SNAP benefits.

The Department is correct to seek the disqualification of the Defendant from participating in the SNAP program for a period of 10 years.

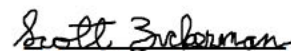
The Department correctly determined the Defendant was overpaid SNAP benefits of \$1,356.00 due to an IPV and is correct to seek recoupment of those benefits from the Defendant.

DECISION

The Defendant is **Guilty** of committing a first offense intentional program violation of the SNAP program from [REDACTED] 2018 through [REDACTED], 2018.

With regard to the Department's request to disqualify the Defendant from SNAP and impose a first offense SNAP penalty for ten years, the Department's request is granted.

With regard to the Departments request to recover the overpayment of \$1,356.00, the Department's request is **Granted**.


Scott Zuckerman
Hearing Officer

Pc: 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. 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.