

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

[REDACTED], 2020
Signature Confirmation

[REDACTED]
Request # 150940

NOTICE OF DECISION

PARTY

[REDACTED]

PROCEDURAL BACKGROUND

The Department of Social Services (the "Department") requested an Administrative Disqualification Hearing ("ADH") to seek the disqualification of [REDACTED] (the "Defendant") from participating in the Supplemental Nutritional Assistance Program ("SNAP") for a period of 12 months. The Department alleged that the Defendant committed an Intentional Program Violation ("IPV") as a result of the Defendant's failure to report earned income from employment. The Department proposes to recoup from the Defendant \$1,152.00 in alleged overpaid SNAP benefits. This is the Defendant's first IPV offense in the SNAP program.

On [REDACTED], 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") notified the defendant of the initiation of the ADH process via certified mail. The defendant did not claim the mail. On [REDACTED] 2020 OLCRAH notified the defendant of the initiation of the ADH process via first class mail. The first class mail was not returned. The notification outlined a Defendant's rights in these proceedings. The ADH was scheduled for [REDACTED] 2020.

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:

Miriam Alvarado, Department's Representative
Thomas Monahan, Hearing Officer

STATEMENT OF THE ISSUES

1. The first issue to be decided is whether the Defendant committed an IPV in the SNAP program.
2. The second issue to be decided is whether the Department's proposal to recoup a SNAP overpayment is correct.

FINDINGS OF FACT

1. On [REDACTED] 2018, the Defendant applied for and was granted SNAP benefits via an in office face to face interview. (Exhibit 10: Application p. 1, Exhibit 21: Case notes)
2. At the interview the Defendant stated that he had no income because he was out of work due to foot surgery. (Hearing record, Exhibit 21: Case notes)
3. The Defendant returned to work in [REDACTED] and received his first pay check [REDACTED] 2018. (Exhibit 8: Work # wage verification)
4. On the Periodic Report Form ("PRF") received from the Defendant on [REDACTED] 2019, he reported no income. (Ex. 12: PRF, [REDACTED]/19)
5. The Defendant continued to receive SNAP benefits from [REDACTED] based on zero income. (Hearing record, Exhibit 15: Benefit history)
7. On [REDACTED] 2019, the Department's Fraud unit received a referral for unreported income by the Defendant. (Hearing record, Exhibit 2: Report of suspected program violation)
8. The Defendant's total monthly earned income from [REDACTED] from [REDACTED] was as follows:

Month	Total
[REDACTED]	2,948.97
[REDACTED]	2,567.06
[REDACTED]	[REDACTED]
[REDACTED]	\$1,452.60
[REDACTED]	\$1,423.75
[REDACTED]	[REDACTED]
[REDACTED]	\$2,620.34
[REDACTED]	\$2,651.97

(Exhibits 8 and 9: Wage verification)

9. 130% of the FPL for the Defendant's household size is \$1,316.00 per month. (Hearing Summary; Exhibit 17: Income limits)
10. The Department determined that the Appellant was required to report his earnings in [REDACTED], because they exceeded 130% of the FPL.
11. The overpayments were calculated as follows:

Month	SNAP received	SNAP eligible	Overpayment
[REDACTED]	\$192.00	\$0.00	\$192.00
[REDACTED]h	\$192.00	\$0.00	\$192.00
[REDACTED]	\$192.00	\$0.00	\$192.00
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	\$192.00	\$0.00	\$192.00
[REDACTED]	\$192.00	\$0.00	\$192.00
			Total \$1,152.00

(Exhibit 18: O.P. detail, Snap O.P. Summary)

12. The total overpayment from [REDACTED] is \$1,152.00. (Facts 8-11)
13. The Department overpaid the Defendant a total of \$1,152.00 in SNAP benefits for the time period [REDACTED] because his earned income was not reported on his Periodic Report Form and he did not contact the Department when he returned to work. The earned income was not included in his SNAP benefit calculation for those months. (Exhibit 21: Case Notes)

14. On [REDACTED], 2019, and [REDACTED] 2019, the Department sent the Appellant letters of overpayment and Waiver of Disqualification of hearing forms. (Exhibits 6 and 7: Over payment notices)
15. The Appellant did not respond to the notices or the Department's attempt to contact him via telephone. (Testimony)
16. The Defendant did not attend the Administrative Disqualification Hearing scheduled for [REDACTED], 2020, and the first class mail notification of the hearing was not returned by the Post Office. (Hearing record)
17. The Defendant has no prior intentional program violations of the SNAP program. (Hearing record, Exhibit 1: Penalty query)

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") 273.16(e) provides that the State agency shall conduct administrative disqualification hearings for individuals accused of Intentional Program Violation. Uniform Policy Manual ("UPM") Section 7050 outlines the Administrative Disqualification Hearing process.
4. Regulation provides an Administrative Disqualification Hearing is a hearing conducted by the Department in which the Department determines whether an AFDC or SNAP assistance unit member has caused an overpayment by committing an intentional recipient error. Uniform Policy Manual ("UPM") § 7050.5(A)(2)
5. Regulation 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 present. UPM § 7050.25(D)(3)
6. The Defendant was not present at the hearing. The Defendant did not show good cause for failing to appear.

7. Regulation 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). 7 CFR 273.16(c)
8. Regulation provides that the Department preliminarily classifies a recipient error as intentional if: the assistance unit fails without good cause to report a change affecting eligibility in a timely manner; or the assistance unit knowingly misinforms the Department regarding information affecting eligibility; or (3) the assistance unit commits an illegal act such as cashing a duplicate check after falsely claiming non-receipt of the first check; or the assistance unit or its authorized representative withdraws cash or food stamp benefits from the EBT account after they notify the Department that they need a new debit card and before the time the Department's designee deactivates the card.

A final determination of intentional recipient error is made: (1) under all programs, if a court of jurisdiction determines that the assistance unit committed the error intentionally; and (2) under the AFDC and Food Stamp programs, if the assistance unit is found guilty through the Administrative Disqualification Hearing process or the unit waives its right to the Administrative Disqualification Hearing. UPM § 7005.10(C)(2)(a)(b)

9. Regulation 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. 7 CFR 273.16(e)(6)
10. Regulation provides that the Department acts promptly to determine the effect on eligibility or benefit level whenever changes become known to the Department. UPM § 1555.30(A)(1)
11. UPM § 1555.05 outlines the reporting requirements.
12. SNAP recipients are required to report when their household's total gross monthly income exceeds 130% of the Federal Poverty Level ("FPL") for the household size. (Program Information Bulletin No: 08-06)

13. The hearing record clearly and convincingly established that the Defendant intentionally failed to report to the Department his earned income on his Periodic Report Form and that he did not contact the Department when he returned to work and began earning in excess of 130% of the FPL..
14. If the intentional recipient error occurred on or after August 1, 1984, the length of the disqualification period is 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.
- UPM 7050.30(B)(2)
15. The Defendant's failure to report his earned income at the time he returned to work and subsequent reviews constitutes a first offense intentional program violation of the SNAP program.
16. The Department is correct to seek the disqualification of the Defendant from participating in the SNAP program for a period of 12 months.
17. Regulation provides that even though the individual is disqualified, the household is responsible for making restitution for the amount of any overpayment. 7 CFR § 273.16(b)(12)
18. Regulation provides that for Collection of SNAP IPV overpayments limit the amount reduced to the greater of \$20 per month or 20 percent of the household's monthly allotment. 7 CFR § 273.18(g)(1)(ii)
19. The Department is correct to seek recoupment of the \$1,152.00 overpayment from the Defendant.

DECISION

The Defendant is guilty of committing a first offense intentional program violation in the SNAP program as the Defendant knowingly did not properly report his earnings from employment. He is disqualified from the SNAP

program for a period of one year and must make restitution for the \$1,152.00 Overpayment.

Thomas Monahan

Thomas Monahan
Hearing Officer

C: OLCRAH.QA.DSS@ct.gov
Miriam Alvarado, Hearing liaison

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.

