

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: 151043

SNAP ADMINISTRATIVE DISQUALIFICATION HEARING
NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2020, the Department of Social Services (the "Department") petitioned the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") to schedule an administrative disqualification hearing seeking to bar ██████████ (the "Defendant") from participating in the Supplemental Nutrition Assistance Program ("SNAP") for twelve months.

On ██████████ 2020, the OLCRAH issued a *Notice of Administrative Hearing* with a copy of the Department's hearing summary and exhibits to the Defendant by certified mail. The *Notice* stated that an administrative disqualification hearing would be held on ██████████ 2020 and a decision issued, even should the Defendant not appear.

On ██████████ 2020, the OLCRAH mailed by first class mail a second copy of the *Notice* with accompanying documents to the Defendant's address, with a cover letter requesting her response by ██████████ 2020. As of ██████████ 2020, the Defendant had not contacted the OLCRAH.

On ██████████ 2020, the OLCRAH conducted a SNAP administrative disqualification hearing, in accordance with Title 7, section 273.16 of the Code of Federal Regulations ("C.F.R."), and section 17b-88 of the Connecticut General Statutes. The Defendant did not appear for the ██████████ 2020 administrative disqualification hearing and did not request a postponement. The following individuals participated:

William Carrasquillo, Department's representative
Eva Tar, Hearing Officer

The hearing record closed ██████████ 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 from the Defendant \$1,152.00 in excess SNAP benefits.

FINDINGS OF FACT

1. The Defendant was a SNAP recipient as a household of one. (Department Exhibit 9)
2. On [REDACTED] 2018, [REDACTED] hired the Defendant. (Department Exhibit 5)
3. On or after [REDACTED], 2018, the Department received a *Periodic Report Form* signed by the Defendant on [REDACTED], 2018. (Department Exhibit 7)
4. The Defendant did not report her [REDACTED] employment and wages to the Department on the [REDACTED] 2018 *Periodic Report Form*. (Department Exhibit 7)
5. In [REDACTED] 2018, the Defendant grossed \$2,741.22 in wages. (Department Exhibit 5)
6. In [REDACTED] 2018, the Defendant grossed \$3,279.06 in wages. (Department Exhibit 5)
7. In [REDACTED] 2018, the Defendant grossed \$2,448.00 in wages. (Department Exhibit 5)
8. In [REDACTED] 2019, the Defendant grossed \$2,929.50 in wages. (Department Exhibit 5)
9. In [REDACTED] 2019, the Defendant grossed \$1,894.50 in wages. (Department Exhibit 5)
10. In [REDACTED] 2019, the Defendant grossed \$3,316.50 in wages. (Department Exhibit 5)
11. On [REDACTED] 2019, the Department received a *Renewal of Eligibility* form, certified and signed by the Defendant on [REDACTED] 2019 as containing information that was “complete and accurate” and that she understood “that [she] could be criminally or civilly prosecuted under state or federal law if [she] knowingly gave incorrect information or failed to report something [she] should report.” (Department Exhibit 8)
12. The Defendant did not her [REDACTED] employment and wages on the [REDACTED] 2019 *Renewal of Eligibility* form. (Department Exhibit 8)
13. On or before [REDACTED] 2019, the Department discovered the Defendant had been employed since [REDACTED] 2018. (Department Exhibits 5)
14. In 2018, one hundred percent of the Federal Poverty Level for the 48 contiguous states and the District of Columbia for an individual equaled \$12,140.00 annually, or \$1,011.66 per month.

15. The Department does not seek to recover SNAP benefits issued to the Defendant for the service months of ██████ 2018 and ██████ 2018. (Department representative testimony)
16. The Department seeks to recover SNAP benefits issued to the Defendant for the service months of ██████ 2018 through ██████ 2019. (Department Exhibit 6)
17. As of ██████ 2020, the Electronic Disqualified Recipient System had not identified the Defendant as an individual who had previously been sanctioned for an intentional program violation of the SNAP. (Department Exhibit 10)
18. Title 7, section 273.15 (c)(1) of the Code of Federal Regulations (“C.F.R.”) provides that “[w]ithin 60 days of receipt of a request for a fair hearing, the State agency shall assure that the hearing is conducted, a decision is reached, and the household and local agency are notified of the decision....” As the Department requested this hearing on ██████ 2020, the final decision would become due by ██████ 2020. This decision is timely.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes designates the Department as the state agency for the administration of the supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008.
2. Title 7, section 273.16 of the Code of Federal Regulations (“C.F.R.”) addresses program disqualification for intentional program violations with respect to the SNAP. “The State agency should conduct administrative disqualification hearings in cases in which the State agency believes the facts of the individual case do not warrant civil or criminal prosecution through the appropriate court system....” 7 C.F.R. § 273.16 (a)(1).

Section 17b-88 of the Connecticut General Statutes provides in part that the Department may take such action as conforms to federal regulations, including, but not limited to conducting administrative disqualification hearings for cases involving alleged fraud in the supplemental nutrition assistance program.

The Department had the authority to conduct an administrative disqualification hearing with respect to the Defendant’s SNAP case.

3. *“Reporting when gross income exceeds 130 percent of poverty.* A household subject to simplified reporting in accordance with paragraph (a)(5)(i) of this section, whether or not it is required to submit a periodic report, must report when its monthly gross income exceeds the monthly gross income limit for its household size, as defined at §273.9(a)(1)....” 7 CFR § 273.12 (a)(5)(v).

In 2018, the Defendant was obligated to report to the Department when her gross monthly income from all sources first began to exceed \$1,315.15, or 130 percent of the Federal Poverty Level per month for an individual residing in Connecticut.

4. "Households that are certified for longer than 6 months, except those households described in §273.12(a)(5)(iii)(A), must file a periodic report between 4 months and 6 months, as required by the State agency...." 7 C.F.R. § 273.12 (a)(5)(iii)(B).

With respect to the SNAP, the Defendant was subject to periodic reporting requirements.

5. "The periodic report form must request from the household information on any changes in circumstances in accordance with paragraphs (a)(1)(i) through (a)(1)(vii) of this section and conform to the requirements of paragraph (b)(2) of this section." 7 C.F.R. § 273.12 (a)(5)(iii)(C).

"Certified change reporting households are required to report the following changes in circumstances: ... [a] change in the source of income, including starting or stopping a job or changing jobs, if the change in employment is accompanied by a change in income." 7 C.F.R. § 273.12 (a)(1)(i)(B).

As a condition of program eligibility, the Defendant was required to disclose her employment and wages to the Department on the [REDACTED] 2018 Periodic Report Form and the [REDACTED] 2019 Renewal of Eligibility form.

6. "*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 misrepresented, concealed, or withheld facts regarding her employment on the [REDACTED] 2018 Periodic Report Form and the [REDACTED] 2019 Renewal of Eligibility form.

The Defendant committed an intentional program violation of the SNAP.

7. Title 7, section 273.16 (b)(1) of the Code of Federal Regulations 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 individual must be notified in writing once it is determined that he/she is to be disqualified. 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 a first intentional Program violation.

8. “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. If the discovery is made within the certification period, the household is entitled to a notice of adverse action if the household's benefits are reduced....” 7 C.F.R. § 273.12 (d).

Title 7, section 273.18 of the Code of Federal Regulations addresses claims against households. Subsection (c)(1)(ii) provides the methodology for the actual steps for calculating a claim that is unrelated to trafficking.

From [REDACTED] 2018 through [REDACTED] 2019, the Defendant received a total of \$1,152.00 in SNAP benefits for which she was not eligible, as her gross wages in each month exceeded the program limit of 130 percent of the Federal Poverty Level for an individual.

The Department may recover from the Defendant \$1,152.00 in excess SNAP benefits issued to her for the service months from [REDACTED] 2018 through [REDACTED] 2019.

DECISION

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

The Department may initiate recovery from the Defendant of \$1,152.00 in excess SNAP benefits issued to the Defendant for the service months from [REDACTED] 2018 through [REDACTED] 2019.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

Cc: William Carrasquillo, DSS-Bridgeport
Fred Presnick, DSS-Bridgeport
Yecenia Acosta, DSS-Bridgeport

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.