

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

██████████ 2020
Signature Confirmation

Client ID ██████████
Case ID ██████████
Request # 151639

ADMINISTRATIVE DISQUALIFICATION HEARING
NOTICE OF DECISION

PARTY

██████████
██████████
██████████

REASON FOR HEARING

On ██████████ 2020, the Department of Social Services made a request for an Administrative Disqualification Hearing (“ADH”) to seek disqualification of ██████████ (the “Defendant”) from participation in the Supplemental Nutrition Assistance Program (“SNAP”) for twelve (12) months. The Department alleges that the Defendant committed an Intentional Program Violation (“IPV”) by failing to report household income. The Department also seeks to recover overpaid SNAP benefits of \$1,152.00.

On ██████████ ██████████ 2020, the Office of Legal Counsel, Regulations and Administrative Hearings (“OLCRAH”) mailed the Defendant notification of the initiation of the ADH process scheduled for ██████████ 2020, which included notification of the Defendant’s rights in these proceedings via certified mail.

On ██████████ 2020, the United States Postal Service delivered the notice of ADH to the Defendant’s address where the Defendant’s mother accepted delivery of the notification.

On ██████████ 2020, OLCRAH conducted the ADH in accordance with section 17b-88 of the Connecticut General Statutes and Title 7 of the Code of Federal Regulations section 273.16 subsection (e).

PRESENT AT THE HEARING

Salvatore Tordonato, Department Representative
Lisa Nyren, Fair Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Defendant committed an intentional program violation (“IPV”) of the SNAP and subject to a twelve (12) month disqualification penalty under the SNAP.

A secondary issue to be decided is whether the Department’s proposal to recoup a SNAP overpayment of \$1,152.00 for the period [REDACTED] 2019 through [REDACTED], 2019 is correct.

FINDINGS OF FACT

1. The Defendant received benefits under the SNAP for herself. (Hearing Record)
2. On [REDACTED], 2015, the Defendant began working for Connecticut Renaissance Inc. (the “employer”). (Exhibit 5: Wage Verification)
3. The Defendant earned the following biweekly pays from the employer. (Exhibit 5: Wage Verification)

Period End Date	Pay Date		Gross Wages
[REDACTED]/19	[REDACTED]/19		\$814.10
[REDACTED]/19	[REDACTED]/19	+	\$875.93
		=	<u>\$1,690.03</u>
Period End Date	Pay Date		Gross Wages
[REDACTED]/19	[REDACTED]/19		\$779.75
[REDACTED]/19	[REDACTED]/19	+	\$858.75
		=	<u>\$1,638.50</u>
Period End Date	Pay Date		Gross Wages
[REDACTED]/19	[REDACTED]/19		\$869.06
[REDACTED]/19	[REDACTED]/19	+	\$772.88
[REDACTED]/19	[REDACTED]/19	+	\$642.35
		=	<u>\$2,284.29</u>
Period End Date	Pay Date		Gross Wages
[REDACTED]/19	[REDACTED]/19		\$1,392.89

█/19	█/19	+	\$731.66
		=	<u>\$2,124.55</u>
Period End Date	Pay Date		Gross Wages
█/19	█/19		\$793.49
█/19	█/19	+	\$875.93
		=	<u>\$1,669.42</u>
Period End Date	Pay Date		Gross Wages
█/19	█/19		\$869.06
█/19	█/19	+	\$833.35
█/19	█/19	+	\$810.66
		=	<u>\$2,513.07</u>
Period End Date	Pay Date		Gross Wages
█/19	█/19		776.31
█/19	█/19	+	499.98
		=	<u>\$1,276.29</u>

4. On █, 2019, the Defendant submitted an online periodic review form ("PRF") to the Department. The Defendant answered "No" to the question, "Did your household's gross monthly earned income listed in this section go up or down by more than \$100?" The PRF lists "Income Type: There is no income for this case." (Exhibit 4: Online Periodic Report Form)
5. On █, 2020, the Department submitted a referral to the Regional Office Fraud Unit ("fraud unit") to investigate possible failure to report employment and failure to report income exceeds the SNAP income limit. (Exhibit 1: Report of Suspected IPV Overpayment and Exhibit 2: IPV Disqualification Data)
6. The fraud unit determined the Defendant failed to report employment and that her monthly gross income from the employer exceeded the SNAP gross income limit of 130% of the federal poverty level. The Defendant failed to report a change in her monthly income of more than \$100 due to employment on the PRF submitted by the Defendant on █ 2019. (Hearing Record)
7. The fraud unit determined the Defendant committed an IPV under the SNAP because she failed to report employment on the █ 2019 PRF and failed to report her household income changed by more than \$100.00 on the PRF. (Hearing Record)

8. The Defendant is not entitled to the 20% earned income deduction. (Department Representative's Testimony and Exhibit 7: SNAP Computation Sheet)
9. The Defendant pays \$560.00 per month for rent. (Exhibit 7: SNAP Computation Sheet)
10. The Defendant received the standard utility allowance of \$736.00 for shelter expenses. (Exhibit 7: SNAP Computation Sheet)
11. The Department determined the Defendant eligible for a shelter deduction of \$ \$143.11 for █████ 2019. (Exhibit 9: SNAP Computation Sheet)
12. The Department determined the Defendant eligible for a shelter deduction of \$552.00 for █████ 2019. (Exhibit 9: SNAP Computation Sheet)
13. Department determined the Defendant eligible for a shelter deduction of \$552.00 for █████ 2019. (Exhibit 9: SNAP Computation Sheet)
14. Department determined the Defendant eligible for a shelter deduction of \$552.00 for █████ 2019. (Exhibit 9: SNAP Computation Sheet)
15. Department determined the Defendant eligible for a shelter deduction of \$552.00 for █████ 2019. (Exhibit 9: SNAP Computation Sheet)
16. Department determined the Defendant eligible for a shelter deduction of \$552.00 for █████ 2019. (Exhibit 9: SNAP Computation Sheet)
17. The Defendant received the Standard Deduction of \$164.00 per month. (Exhibit 9: SNAP Computation Sheet)
18. The Defendant received the following SNAP benefits for the period █████, 2019 through █████, 2019: (Exhibit 12: Benefit Issuance Search)

Issuance Month	Amount Received
█████ 2019	\$192.00
█████ 2019	\$192.00
█████ 2019	\$192.00
█████ 2019	\$192.00
█████ 2019	\$192.00
█████ 2019	\$192.00

19. For the period █████ 2019 through █████ 2019, the Department determined the Defendant ineligible for benefits under the SNAP after wages applied to the benefit calculation causing an overpayment of benefits under the SNAP totaling \$1,152.00. (Hearing Record)

Issuance Month	Amount Received	Amount Entitled	Overpayment Amount
██████ 2019	\$192.00	\$00.00	\$192.00
██████ 2019	\$192.00	\$00.00	\$192.00
██████ 2019	\$192.00	\$00.00	\$192.00
██████ 2019	\$192.00	\$00.00	\$192.00
██████ 2019	\$192.00	\$00.00	\$192.00
██████t 2019	\$192.00	\$00.00	\$192.00
Totals	\$1,152.00	\$00.00	\$1,152.00

20. The Department searched the Electronic Disqualified Recipient System (“eDRS”) by the Defendant’s social security number and found no record of prior disqualifications for the Defendant. (Exhibit 9: eDRS Query)
21. On ██████████ 2019, the fraud unit issued a W-1448 Notice of Prehearing Interview Food Stamp Program (“W-1448”) to the Defendant. The W-1448 charged that the Defendant broke the rules regulating the SNAP by failing to report employment and incurred an overpayment totaling \$1,152.00 under the SNAP. The Department scheduled an appointment for ██████████, 2019 to meet with the Defendant at the regional office to discuss the charge. (Exhibit 3: Prehearing Interview/Waiver of Disqualification Hearing)
22. On ██████████ 2019, the fraud unit mailed a Waiver of Disqualification Hearing (“W1449”) to the Defendant. The notice charges the Defendant with an IPV. The notice notifies the Defendant of an overpayment of \$1,152.00 for the period ██████████ 2019 through ██████████ 2019, repayment options, and gives the Defendant options to voluntarily admit to the violation, voluntarily sign a waiver or exercise her right to an administrative hearing. (Exhibit 3: Prehearing Interview/Waiver of Disqualification Hearing)
23. The Defendant did not appear at the Regional Office on ██████████ 2019 to discuss the charges. (Hearing Record)
24. The Department did not receive a signed W-1449 from the Defendant. (Hearing Record)
25. On ██████████, 2020, the OLCRAH conducted an administrative disqualification hearing. (Hearing Record)
26. The Department seeks to disqualify the Defendant from participation in the SNAP for a period of twelve (12) months due to an IPV when the Defendant failed to report employment on the PRF and failed to report her income exceeded the SNAP gross income limit. (Hearing Record)

27. The Department seeks to recover \$1,152.00 in overpaid SNAP benefits because the Defendant failed to follow the SNAP rules when she failed to report her employment information on the PRF and failed to report her income exceeded the SNAP gross income limit. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-2(7) of the Connecticut General Statutes (“Conn. Gen. Stat.”) provides that 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.
2. State statute provides as follows:

If a beneficiary of assistance under the state supplement program, medical assistance program, aid to families with dependent children program, temporary family assistance program, state-administered general assistance program, food stamp program or supplemental nutrition assistance program receives any award or grant over the amount to which he is entitled under the laws governing eligibility, the Department of Social Services (1) shall immediately initiate recoupment action and consult with the Division of Criminal Justice to determine whether to refer such overpayment, with full supporting information, to the state police, to a prosecuting authority for prosecution or to the Attorney General for civil recovery, or (2) shall 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, the aid to families with dependent children program, the temporary family assistance program or the state-administered general assistance program.

Conn. Gen. Stat. § 17b-88

3. Title 7 Section 273.16(a)(1) of the Code of Federal Regulations (“C.F.R.”) provides as follows:

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. If the State agency does not initiate administrative disqualification procedures or refer for prosecution a case involving an overissuance caused by a suspected act of intentional Program violation, the State agency shall take action to collect the overissuance by establishing an inadvertent household error claim against the household in accordance with the procedures in §273.18. 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, in cases previously referred for prosecution that were declined by the appropriate legal authority, and in previously referred cases where no action was taken within a reasonable period of time and the referral was formally withdrawn by the State agency. The State agency shall not initiate an administrative disqualification hearing against an accused individual whose case is currently being referred for prosecution or subsequent to any action taken against the accused individual by the prosecutor or court of appropriate jurisdiction, if the factual issues of the case arise out of the same, or related, circumstances. The State agency may initiate administrative disqualification procedures or refer a case for prosecution regardless of the current eligibility of the individual.

Section 7050.05(A)(2) of the Uniform Policy Manual (“UPM”) provides as follows:

An administrative disqualification hearing is a hearing conducted by the Department in which the Department determines whether an AFDC or Food Stamp assistance unit member has caused an overpayment by committing an intentional recipient error.

4. Federal regulation provides as follows:

The State agency shall base administrative disqualifications for intentional Program Violations on the determinations of hearing authorities arrived at through administrative disqualification hearings in accordance with paragraph (e) of this section or on determinations reached by courts of appropriate jurisdiction in accordance with paragraph (g) of this section. However, any State agency has the option of allowing accused individuals either to waive their rights to administrative disqualification hearings in accordance with paragraph (f) of this section or to sign disqualification consent agreements for cases of deferred adjudication in accordance with paragraph (h) of this section. Any State agency which chooses either of these options may base administrative disqualifications for intentional Program violation on the waived right to an administrative disqualification hearing or on the signed disqualification consent agreement in cases of deferred adjudication.

7 C.F.R. § 273.16(a)(3)

Department policy provides as follows:

In the AFDC and Food Stamp programs 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 from the AFDC and/or Food Stamp programs for a specified amount of time. This chapter describes the Department's policies and procedures concerning the Administrative Disqualification hearing process.

UPM § 7050

5. Federal regulation provides as follows:

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)

Department policy defines Intentional Recipient Error as an intentionally oral or written statement made by the assistance unit regarding circumstances affecting eligibility or the amount of benefits. An intentional recipient error is also the intentional failure by the assistance unit to report timely the receipt of income or assets or other changes in circumstances affecting eligibility or the amount of benefits.

UPM § 7000.01

Department policy provides as follows:

The Department preliminarily classifies a recipient error as intentional if:

1. The assistance unit fails without good cause to report a change affecting eligibility in a timely manner; or
2. 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.
4. 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.

UPM § 7005.10(C)(2)(a)

6. Federal regulation provides as follows:

Monthly reporting households are required to report as provided in § 273.21. Quarterly reporting households are subject to the procedures as provided in paragraph (a)(4) of this section. Simplified report households are subject to the procedures as provided in paragraph (a)(5) of this section. Certified change reporting households are required to report the following changes in circumstances.

7 C.F.R. § 273.12(a)(1)

"The State agency may establish a simplified reporting system in lieu of the change reporting requirements specified under paragraph (a)(1) of this section." 7 C.F.R. § 273.12(a)(5)

7. The Department correctly determined the Defendant subject to simplified reporting under the SNAP program.
8. Federal regulation provides as follows:

The periodic report form shall be the sole reporting requirement for any information that is required to be reported on the form, except that a household required to report less frequently than quarterly shall report when its monthly gross income exceeds the monthly gross income limit for its household size in accordance with paragraph (a)(5)(v) of this section.

7 C.F.R. § 273.12(a)(5)(iii)(G)(1)

9. Federal regulation provides as follows:

Submission of periodic reports by non-exempt households. 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. Households in which all adult members are elderly or have a disability with no earned income and are certified for periods lasting between 13 months and 24 months must file a periodic report once a year. In selecting a due date for

the periodic report, the State agency must provide itself sufficient time to process reports so that households that have reported changes that will reduce or terminate benefits will receive adequate notice of action on the report in the first month of the new reporting period.

7 C.F.R. § 273.12(a)(5)(iii)(B)

Department policy provides as follows:

Assistance unit must satisfy certain procedural requirements as described in Section 3500, including: cooperating with the Department as necessary. Cooperation includes: taking steps as required by the Department to complete the eligibility determination, periodic redetermination of eligibility, interim changes in eligibility or benefit level and Quality Control reviews.

UPM § 1010.05(C)(6)(a)

“Assistance units are provided with change report forms in order to facilitate the reporting of interim changes.” UPM § 1555.20(B)(1)

10. “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)

“The household’s responsibility to report 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)

Federal regulation provides as follows:

One of the following, as determined by the State agency (different options may be used for different categories of households as long as no household is required to report under more than one option; the State may also utilize different options in different project areas within the State):

1. A change in the wage rate or salary or a change in full-time or part-time employment status (as determined by the employer or as defined in the State’s PA program), provided that the household is certified for no more than 6 months; or
2. A change in the amount earned of more than \$100 a month from the amount last used to calculate the household’s allotment, provided that the household is certified for no more than 6 months.

7 C.F.R. § 273.12(a)(1)(i)(C)(2)

“The assistance unit must report to the Department, in an accurate and timely manner as defined by the Department, any changes which may affect the unit’s eligibility or amount of benefits (cross reference 1555).” UPM § 1010.05(B)(1)

Department policy provides in part:

Changes affecting eligibility or benefit level include, but are not limited to the following:

1. Changes in the source of income;
2. Changes in the amount of income or resources, regardless of whether or not the income is countable.

UPM § 1555.15(B)

11. The Department correctly determined the Defendant failed to report employment resulting in a change in income when the Defendant answered no to the question regarding a change in income of more than \$100.00 on the PRF. The Defendant failed to establish good cause for the omission of employment and income changes.

12. “The State agency shall conduct administrative disqualification hearings for individuals accused of intentional Program violation in accordance with the requirements outlined in this section.” 7 C.F.R. § 273.16(e)

“An Administrative Disqualification Hearing is a hearing conducted by the Department in which the Department determined whether an AFDC or Food Stamp assistance unit member has caused an overpayment by committing an intentional recipient error.” UPM § 7050.05(A)(2)

13. “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, intentional Program violation as defined in paragraph (c) of this section.” 7 C.F.R. § 273.16(e)(6)

Department policy provides as follows:

For a final determination intentional recipient error is made:

1. Under all programs, if a court of jurisdiction determined 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)(b)

“If the Department seeks to impose a penalty against the assistance unit, a final determination regarding the nature of a recipient error is made either by a court of jurisdiction or by the Department through the Administrative Disqualification Hearing Process.” UPM § 7005.10(A)(3)

14. The Department correctly determined that the Defendant committed an intentional program violation (IPV) of SNAP regulations because the Defendant failed to report employment which resulted in an increase in household income by more than \$100.00 on the PRF submitted to the Department on [REDACTED] 2019.

15. Federal regulation provides for the imposition of disqualification penalties.

If the hearing authority rules that the individual has committed an intentional Program violation, the household member must be disqualified in accordance with the disqualification periods and procedures in paragraph (b) of this section. The same act of intentional Program violation repeated over a period of time must not be separated so that separate penalties can be imposed.

7 C.F.R. § 273.16(e)(8)(i)

Department policy provides as follows:

If the assistance unit member is found to have committed an intentional recipient error:

- a. He or she is subject to disqualification penalties as described in this chapter; and
- b. The assistance unit with who the disqualified individual is living is subject to recoupment action, as described in Sections 7030 and 7045.

UPM § 7050.05(A)(4)

16. Federal regulation provides as follows:

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: 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.

7 C.F.R. § 273.16(b)(1)(i)

“An individual is disqualified from participating in the AFDC or Food Stamp program if: a determination of an intentional recipient error is made by an Administrative Disqualification Hearing official.” UPM § 7050.30(A)(1)(b)

Department policy provides as follows:

If the intentional recipient error occurred on or after August 1, 1984, the length of the disqualification period is determined as follows: 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: for the first offense, the length of disqualification is one year.

UPM § 7050.30(B)(2)(b)(2)(a)

17. The Department was correct to seek the disqualification of the Defendant from participating in the SNAP program for a period of 12 months under a first violation because the Defendant committed an IPV and subject to disqualification under the SNAP for a period of 12 months.

18. Federal regulation provides as follows:

Participation in the Program shall be limited to those household whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Household which contain an elderly or disabled member shall meet the net income eligibility standards for SNAP. Household which do not contain an elderly or disabled member shall meet both the net income eligibility standards and the gross income eligibility standards for SNAP. Household which are categorically eligible as defined in § 273.2(j)(2) or § 273.2(j)(4) do not have to meet either the gross or net income eligibility standards. The net and gross income eligibility standards shall be based on the Federal income poverty levels established as provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

7 C.F.R. § 273.9(a)

“Income eligibility for the FS program is determined either through the use of FS gross and applied income tests or through meeting the eligibility requirements for TFA (including diversion assistance), AFDC, AABD, GA, SAGA, refugee assistance or SSI.” UPM § 5520.40

“If the unit’s total gross income exceeds the standard, the unit is not eligible for Food Stamps benefits.” UPM § 5520.40(2)(a)

“The period of time in which the assistance unit is income-eligible for the Food Stamp Program is limited to the calendar months in which the unit’s income passes the appropriate income eligibility tests.” UPM § 5510(c)

19. “Household income shall mean all income from whatever source excluding only items specified in paragraph (c) of this section. (1) Earned income shall include: (i) all wages and salaries of employee.” 7 C.F.R. § 273.9(b)

“The Department counts the assistance unit’s available income, and that income is considered available if it is received directly by the assistance unit.” UPM § 5005(A)(1)

20. The Department correctly included the Defendant’s wages for the purpose of determining eligibility for and calculating of SNAP benefits.

21. Federal regulation provides as follows:

Determining income—(1) Anticipating income. (i) For the purpose of determining the household’s eligibility and level of benefits, the State agency shall take into account the income already received by the household during the certification period and any anticipated income the household and the State agency are reasonably certain will be received during the remainder of the certification period. If the amount of income that will be received, or when it will be received, is uncertain, that portion of the household’s income that is uncertain shall not be counted by the State agency. For example, a household anticipating income from a new source, such as a new job or recently applied for public assistance benefits, may be uncertain as to the timing and amount of the initial payment. These moneys shall not be anticipated by the State agency unless there is reasonable certainty concerning the month in which the payment will be received and in what amount. If the exact amount of the income is not known, that portion of it which can be anticipated with reasonable certainty shall be considered as income. In cases where the receipt of income is reasonably certain but the monthly amount may fluctuate, the household may elect to income average. Households shall be advised to report all changes in gross monthly income as required by §273.12.

7 CFR § 273.10(c)(1)(i)

Federal regulation provides as follows:

Income only in month received. (i) Income anticipated during the certification period shall be counted as income only in the month it is expected to be received, unless the income is averaged. Whenever a full month's income is anticipated but is received on a weekly or biweekly basis, the State agency shall convert the income to a monthly amount by multiplying weekly amounts by 4.3 and biweekly amounts by 2.15, use the State Agency's PA conversion standard, or use the exact monthly figure if it can be anticipated for each month of the certification period. Nonrecurring lump-sum payments shall be counted as a resource starting in the month received and shall not be counted as income.

7 C.F.R. § 273.10(c)(2)(i)

“The Department uses the exact amount of the unit’s available income received or deemed in the month.” UPM § 5025.05(A)(1)

22. For █████ 2019, the Department incorrectly calculated the Defendant’s gross wages as \$2,469.78 by using the pay period end dates rather than the pay dates. The correct gross wages for █████ 2019 are \$1,690.03.
23. For █████ 2019, the Department incorrectly calculated the Defendant’s gross wages as \$1,637.50 due to an addition error. The correct gross wages for █████ 2019 are \$1,638.50.
24. For █████ 2019, the Department incorrectly calculated the Defendant’s gross wages as \$1,415.23 by using the pay period end dates rather than the pay dates. The correct gross wages for █████ 2019 are \$2,284.29.
25. For █████ 2019, the Department correctly calculated the Defendant’s gross wages as \$2,124.55.
26. For █████ 2019, the Department correctly calculated the Defendant’s gross wages as \$1,669.42.
27. For █████ 2019, the Department incorrectly calculated the Defendant’s gross wages as \$2,502.00 by using the pay period end dates rather than the pay dates. The correct gross wages for █████ 2019 are \$2,513.07.
28. *“Determining deductions.* Deductible expenses include only certain dependent care, shelter, medical and at State agency option, child support costs as described in § 273.9.” 7 C.F.R. § 273.10(d)
29. Federal regulation provides as follows:

Monthly shelter expenses in excess of 50 percent of the household's income after all other deductions in paragraphs (d)(1) through (d)(5) of this

section have been allowed. If the household does not contain an elderly or disabled member, as defined in §271.2 of this chapter, the shelter deduction cannot exceed the maximum shelter deduction limit established for the area. For fiscal year 2001, effective March 1, 2001, the maximum monthly excess shelter expense deduction limits are \$340 for the 48 contiguous States and the District of Columbia, \$543 for Alaska, \$458 for Hawaii, \$399 for Guam, and \$268 for the Virgin Islands. FNS will set the maximum monthly excess shelter expense deduction limits for fiscal year 2002 and future years by adjusting the previous year's limits to reflect changes in the shelter component and the fuels and utilities component of the Consumer Price Index for All Urban Consumers for the 12 month period ending the previous November 30. FNS will notify State agencies of the amount of the limit. Only the following expenses are allowable shelter expenses:

- A. Continuing charges for the shelter occupied by the household, including rent, mortgage, condo and association fees, or other continuing charges leading to the ownership of the shelter such as loan repayments for the purchase of a mobile home, including interest on such payments.
- B. Property taxes, State and local assessments, and insurance on the structure itself, but not separate costs for insuring furniture or personal belongings.
- C. The cost of fuel for heating; cooling (i.e., the operation of air conditioning systems or room air conditioners); electricity or fuel used for purposes other than heating or cooling; water; sewerage; well installation and maintenance; septic tank system installation and maintenance; garbage and trash collection; all service fees required to provide service for one telephone, including, but not limited to, basic service fees, wire maintenance fees, subscriber line charges, relay center surcharges, 911 fees, and taxes; and fees charged by the utility provider for initial installation of the utility. One-time deposits cannot be included.
- D. The shelter costs for the home if temporarily not occupied by the household because of employment or training away from home, illness, or abandonment caused by a natural disaster or casualty loss. For costs of a home vacated by the household to be included in the household's shelter costs, the household must intend to return to the home; the current occupants of the home, if any, must not be claiming the shelter costs for SNAP purposes; and the home must not be leased or rented during the absence of the household
- E. Charges for the repair of the home which was substantially damaged or destroyed due to a natural disaster such as a fire or flood. Shelter costs shall not include charges for repair of the home that have been or will be reimbursed by private or public relief agencies, insurance companies, or from any other source.

7 C.F.R. § 273.9(d)(6)(ii)

Department policy provides as follows:

The amount of shelter expenses which exceeds 50% of that portion of the assistance unit's income which remains after all other deductions have been subtracted is allowed as an additional deduction. Shelter expenses are limited to the following:

- a. Rent, mortgage payments, and any continuing charges leading to ownership of the property occupied by the assistance unit excluding any portions allowed as self-employment deductions in multiple-family dwellings;
- b. Taxes, state and local assessments, and insurance on real property;
- c. The entire amount paid as a condominium fee;
- d. Utility costs including the following:
 1. Heat;
 2. Cooking fuel;
 3. Electricity;
 4. Water;
 5. Sewer charges;
 6. Garbage collection;
 7. Basic monthly charge including taxes for a telephone;
 8. Installation charges for a utility.
- e. For eligible residents of group homes who make a single payment for room, meals and medical expenses, the amount of the payment identified for room and meals which exceeds the thrifty food plan for the number of persons in the household; and
- f. Nonreimbursable costs of repairing a home which was damaged due to a natural disaster.

UPM § 5035.15(F)(1)

“Shelter expenses are allowed as deductions for the assistance unit if they are incurred in relation to a home which is occupied by the assistance unit.” UPM § 5035.15(F)(2)(a)(1)

30. Federal regulation provides as follows:

A standard with a heating or cooling component must be made available to households that incur heating or cooling expenses separately from their rent or mortgage and to households that receive direct or indirect assistance under the Low Income Home Energy Assistance Act of 1981 (LIHEAA). A heating or cooling standard is available to households in private rental housing who are billed by their landlords on the basis of

individual usage or who are charged a flat rate separately from their rent. However, households in public housing units which have central utility meters and which charge households only for excess heating or cooling costs are not entitled to a standard that includes heating or cooling costs based only on the charge for excess usage unless the State agency mandates the use of standard utility allowances in accordance with paragraph (d)(6)(iii)(E) of this section. Households that receive direct or indirect energy assistance that is excluded from income consideration (other than that provided under the LIHEAA) are entitled to a standard that includes heating or cooling only if the amount of the expense exceeds the amount of the assistance. Households that receive direct or indirect energy assistance that is counted as income and incur a heating or cooling expense are entitled to use a standard that includes heating or cooling costs. A household that has both an occupied home and an unoccupied home is only entitled to one standard.

7 C.F.R. § 273.9(d)(6)(iii)(C)

UPM § 5035.15(F)(6) provides for a standard utility allowance (“SUA”) determined annually by the agency to reflect changes in utility costs is used to represent the total monthly utility expenses of the assistance unit if:

- a. The assistance unit incurs heating fuel or cooling costs separately from rent or mortgage payments; and
- b. The bill is established on the basis of individualized metering of service to the unit.
- c. The costs are paid:
 1. Totally or partially by the unit; or
 2. Partially from a federal means-tested energy program directly to the service provider or to the recipient when these payments are less than the unit’s total monthly heating or cooling costs; or
 3. Totally by CEAP regardless of whether the payment is made to the unit or directly to the service provider.

UPM § 5035.15(F)(6)

Department policy provides as follows:

The standard utility allowance is also used as a deduction for applicants or recipients who have heat included in their rent payment when one of the following is true:

- a. The assistance unit received a CEAP Direct Cash Benefit (DCB) last hearing season at their current residence; or
- b. The assistance unit appears to be eligible for a CEAP DCB at their current residence and the assistance unit intends to apply for the

CEAP DCB during the next CEAP application period provided the CEAP application can be made within the assistance unit's current Food Stamp certification period.

UPM § 5035.15(F)(7)

31. The Department correctly determined the Defendant's shelter costs as \$1,296.00.
32. Federal regulation provides as follows:

Calculating net income and benefit levels— Net monthly income. To determine a household's net monthly income, the State agency shall:

- A. Add the gross monthly income earned by all household members and the total monthly unearned income of all household members, minus income exclusions, to determine the household's total gross income. Net losses from the self-employment income of a farmer shall be offset in accordance with §273.11(a)(2)(iii).
- B. Multiply the total gross monthly earned income by 20 percent and subtract that amount from the total gross income; or multiply the total gross monthly earned income by 80 percent and add that to the total monthly unearned income, minus income exclusions. If the State agency has chosen to treat legally obligated child support payments as an income exclusion in accordance with §273.9(c)(17), multiply the excluded earnings used to pay child support by 20 percent and subtract that amount from the total gross monthly income.
- C. Subtract the standard deduction.
- D. If the household is entitled to an excess medical deduction as provided in § 273.9(d)(3), determine if total medical expenses exceed \$35. If so, subtract that portion which exceeds \$35.
- E. Subtract allowable monthly dependent care expenses, if any, as specified under § 273.9(d)(4) for each dependent.
- F. If the State agency has chosen to treat legally obligated child support payments as a deduction rather than an exclusion in accordance with § 273.9(d)(5), subtract allowable monthly child support payments in accordance with § 273.9(d)(5).
- G. Subtract the homeless shelter deduction, if any, up to the maximum of \$143.
- H. Total the allowable shelter expenses to determine shelter costs, unless a deduction has been subtracted in accordance with paragraph (e)(1)(i)(G) of this section. Subtract from total shelter costs 50 percent of the household's monthly income after all the above deductions have been subtracted. The remaining amount, if any, is the excess shelter cost. If there is no excess shelter cost, the net monthly income has

been determined. If there is excess shelter cost, compute the shelter deduction according to paragraph (e)(1)(i)(I) of this section.

- I. Subtract the excess shelter cost up to the maximum amount allowed for the area (unless the household is entitled to the full amount of its excess shelter expenses) from the household's monthly income after all other applicable deductions. Households not subject to a capped shelter expense shall have the full amount exceeding 50 percent of their net income subtracted. The household's net monthly income has been determined.

7 CFR § 273.10(e)(1)(i)

“As a State agency, you do not apply the earned income deduction to that part of any earned income that the household failed to report in a timely manner when this act is the basis for the claim.” 7 C.F.R. § 273.18(c)(1)(ii)(B)

Department policy provides as follows:

If an income-related factor causes an overpayment, the Department computes the amount of the overpayment by applying the income-related factor either prospectively or retrospectively, depending on the budgeting method in effect at the time the overpayment occurred. In the computation of the overpayment, earned income that the assistance unit fails to report in a timely manner is not subject to the 20% earned income deduction.

UPM § 7045.15(D)(4)

“In overpayment computations, earned income which the assistance unit fails to report in a timely manner is not adjusted by the 20% deduction described above. (Cross Reference 7045.15)” UPM § 5035.15(B)

Federal regulation provides as follows:

Standard deduction-48 States, District of Columbia, Alaska, Hawaii, and the Virgin Islands. Effective October 1, 2002, in the 48 States and the District of Columbia, Alaska, Hawaii, and the Virgin Islands, the standard deduction for household sizes one through six shall be equal to 8.31 percent of the monthly net income eligibility standard for each household size established under paragraph (a)(2) of this section rounded up to the nearest whole dollar. For household sizes greater than six, the standard deduction shall be equal to the standard deduction for a six-person household.

7 C.F.R. § 273.9(d)(1)(i)

Department policy provides as follows:

The amount of applied income upon which the level of Food Stamps benefits is based is calculated in the following way:

- A. The monthly net earned income amount is calculated by reducing monthly earnings by:
 1. The actual amount of self-employment expenses, if applicable; and
 2. Any earned income deductions approved by the Social Security Administration in regards to individual self-support plans (Cross reference: 5035.15); and
 3. A deduction of 20% of the gross earnings for personal employment expenses.
- B. The monthly net earned income is added to the monthly gross unearned income amount and the total of the income deemed to the unit.
- C. The amount of applied income is calculated by reducing the combined total of net earnings, gross unearned income and deemed income by the following in the order presented:
 1. A deduction for farming losses, if any;
 2. A disregard of [\$164.00] per month;
 3. A deduction for unearned income to be used to fulfill a bon-fide plan to achieve self-support (PASS); Cross reference: 5035.15
 4. The appropriate deduction for work related dependent care expenses;
 5. Deduction for allowable medical expenses for those assistance unit members who qualify;
 6. A deduction for legally obligated child support when it is paid for a child who is not a member of the assistance unit;
 7. A deduction for shelter hardship, if applicable.
(Cross References: 5030 – Income Disregards and 5035 Income Deductions)
- D. The remaining amount after the disregards and deductions are subtracted is the amount of the unit's applied income.

UPM § 5045.15

33. Federal regulation provides as follows:

Except as provided in paragraphs (a)(1), (e)(2)(iii) and (e)(2)(vi) of this section, the household's monthly allotment shall be equal to the maximum SNAP allotment for the household's size reduced by 30 percent of the household's net monthly income as calculated in paragraph (e)(1) of this section. If 30 percent of the household's net income ends in cents, the State agency shall round in one of the following ways: The State agency shall round the 30 percent of net income up to the nearest higher dollar.

7 CFR § 273.10(e)(2)(ii)(A)(1)

Department policy provides as follows:

In the FS program, the amount of benefits is calculated by:

1. Multiplying the assistance unit's applied income by 30%; and
2. Rounding the product up the next whole dollar if it ends in 1-99 cents; and
3. Subtracting the rounded product from the FS standard of assistance for the appropriate unit size. (Cross Reference: 5000 – Treatment of Income, 4500 – Standards of Assistance)

UPM § 6005(C)

34. Federal regulation provides as follows:

Maximum SNAP allotment level. Maximum SNAP allotments shall be based on the TFP as defined in §271.2, and they shall be uniform by household size throughout the 48 contiguous States and the District of Columbia. The TFP for Hawaii shall be the TFP for the 48 States and DC adjusted for the price of food in Honolulu. The TFPs for urban, rural I, and rural II parts of Alaska shall be the TFP for the 48 States and DC adjusted by the price of food in Anchorage and further adjusted for urban, rural I, and rural II Alaska as defined in §272.7(c). The TFPs for Guam and the Virgin Islands shall be adjusted for changes in the cost of food in the 48 States and DC, provided that the cost of these TFPs may not exceed the cost of the highest TFP for the 50 States. The TFP amounts and maximum allotments in each area are adjusted annually and will be prescribed in a table posted on the FNS web site, at www.fns.usda.gov/fsp.

7 C.F.R. § 273.10(e)(4)(i)

Federal regulation provides as follows:

Adjustment. Effective October 1, 1996, the maximum SNAP allotments must be based on 100% of the cost of the TFP as defined in §271.2 of this chapter for the preceding June, rounded to the nearest lower dollar increment, except that on October 1, 1996, the allotments may not fall below those in effect on September 30, 1996.

7 C.F.R. § 273.10(e)(4)(ii)

“The standard of assistance for a qualified assistance unit with no applied income is the Thrifty Food Plan amount to the appropriate assistance unit size as established by the USDA. Thrifty Food Plan amounts are revised annually effective October 1.” UPM § 4535.10(B)

“The Thrifty Food Plan represents the minimum food expenditure that is required to meet an assistance unit’s basic monthly nutritional requirements and the maximum amount of benefits available to a qualified assistance unit with no applied income.” UPM § 4535.10(A)(1)

“The Thrifty Food Plan standards vary according to the size of the assistance units and are uniform statewide for assistance unit of equal size.” UPM § 4535.10(A)(2)

“The Thrifty Food Plan for a qualified assistance unit with no applied income for a household of one is \$192.00.” UPM P-4535.10

35. For ██████ 2019, the Department correctly calculated the Defendant’s SNAP benefit as \$00.00. Although the Department miscalculated the Defendant’s gross wages for ██████ 2019, the result is the same, the calculated SNAP benefit is \$00.00.

INCOME	
Earned Income (“EI”)	\$1,690.03
Less 20% EI deduction	<u>-\$00.00</u>
Total	<u>\$1,690.03</u>
Plus Unearned Income	<u>+\$00.00</u>
Total	\$1,690.03
Less standard deduction	<u>-\$164.00</u>
Adjusted gross income	\$1,526.03
<u>SHELTER COSTS</u>	
Rent	\$560.00
SUA	<u>+\$736.00</u>
Total shelter costs	\$1,296.00
<u>SHELTER HARDSHIP</u>	
Shelter costs	\$1,296.00
Less 50% of adjusted gross income	<u>-\$763.01</u>
Total shelter hardship	\$532.99 (Can not exceed \$552 unless elderly or disabled)
<u>ADJUSTED NET INCOME</u>	
Adjusted gross income	\$1,526.03
Less shelter hardship	<u>-\$532.99</u>

Net Adjusted Income (NAI)	\$993.04
BENEFIT CALCULATION	
Thrifty Food Plan for # Person/s	\$192.00
Less 30% of NAI	<u>-\$298.00</u>
SNAP award	\$00.00

36. For █████ 2019, the Department correctly calculated the Defendant's SNAP benefit as \$00.00. Although the Department miscalculated the Defendant's gross wages for █████ 2019, the result is the same; the calculated SNAP benefit is \$00.00.

INCOME	
Earned Income ("EI")	\$1,638.50
Less 20% EI deduction	<u>-\$00.00</u>
Total	\$1,638.50
Plus Unearned Income	<u>+\$00.00</u>
Total	\$1,638.50
Less standard deduction	<u>-\$164.00</u>
Adjusted gross income	\$1,474.50
SHELTER COSTS	
Rent	\$560.00
SUA	<u>+\$736.00</u>
Total shelter costs	\$1,296.00
SHELTER HARDSHIP	
Shelter costs	\$1,296.00
Less 50% of adjusted gross income	<u>-\$737.25</u>
Total shelter hardship	\$558.75 (Can not exceed \$552 unless elderly or disabled)
ADJUSTED NET INCOME	
Adjusted gross income	\$1,474.50
Less shelter hardship	<u>-\$552.00</u>
Net Adjusted Income (NAI)	\$922.50
BENEFIT CALCULATION	
Thrifty Food Plan for # Person/s	\$192.00
Less 30% of NAI	<u>-\$277.00</u>

SNAP award	\$00.00
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37. For █████ 2019, the Department correctly calculated the Defendant's SNAP benefit as \$00.00. Although the Department miscalculated the Defendant's gross wages for █████ 2019, the result is the same; the calculated SNAP benefit is \$00.00.

INCOME	
Earned Income ("EI")	\$2,284.29
Less 20% EI deduction	<u>-\$00.00</u>
Total	\$2,284.29
Plus Unearned Income	<u>+\$00.00</u>
Total	\$2,284.29
Less standard deduction	<u>-\$164.00</u>
Adjusted gross income	\$2,120.29
<u>SHELTER COSTS</u>	
Rent	\$560.00
SUA	<u>+\$736.00</u>
Total shelter costs	\$1,296.00
<u>SHELTER HARDSHIP</u>	
Shelter costs	\$1,296.00
Less 50% of adjusted gross income	<u>-\$1,060.14</u>
Total shelter hardship	\$235.86 <small>(Can not exceed \$552 unless elderly or disabled)</small>
<u>ADJUSTED NET INCOME</u>	
Adjusted gross income	\$2,120.29
Less shelter hardship	<u>-\$235.86</u>
Net Adjusted Income (NAI)	\$1,884.43
<u>BENEFIT CALCULATION</u>	
Thrifty Food Plan for # Person/s	\$192.00
Less 30% of NAI	<u>-\$566.00</u>
SNAP award	\$00.00

38. For █████ 2019, the Department correctly calculated the Defendant's SNAP benefit as \$00.00.

INCOME	
Earned Income ("EI")	\$2,124.55
Less 20% EI deduction	<u>-\$00.00</u>
Total	\$2,124.55
Plus Unearned Income	<u>+\$00.00</u>
Total	\$2,124.55
Less standard deduction	<u>-\$164.00</u>
Adjusted gross income	\$1,960.55
<u>SHELTER COSTS</u>	
Rent	\$560.00
SUA	<u>+\$736.00</u>
Total shelter costs	\$1,296.00
<u>SHELTER HARDSHIP</u>	
Shelter costs	\$1,296.00
Less 50% of adjusted gross income	<u>-\$980.27</u>
Total shelter hardship	\$315.73 (Can not exceed \$552 unless elderly or disabled)
<u>ADJUSTED NET INCOME</u>	
Adjusted gross income	\$1,960.55
Less shelter hardship	<u>-\$315.73</u>
Net Adjusted Income (NAI)	\$1,644.82
<u>BENEFIT CALCULATION</u>	
Thrifty Food Plan for # Person/s	\$192.00
Less 30% of NAI	<u>-\$494.00</u>
SNAP award	\$00.00

39. For [REDACTED] 2019, the Department correctly calculated the Defendant's SNAP benefit as \$00.00.

INCOME	
Earned Income ("EI")	\$1,669.42
Less 20% EI deduction	<u>-\$00.00</u>
Total	\$1,669.42
Plus Unearned Income	<u>+\$00.00</u>
Total	\$1,669.42
Less standard deduction	<u>-\$164.00</u>
Adjusted gross income	\$1,505.42

SHELTER COSTS	
Rent	\$560.00
SUA	+\$736.00
Total shelter costs	\$1,296.00
SHELTER HARDSHIP	
Shelter costs	\$1,296.00
Less 50% of adjusted gross income	-\$752.71
Total shelter hardship	\$543.29 (Can not exceed \$552 unless elderly or disabled)
ADJUSTED NET INCOME	
Adjusted gross income	\$1,505.42
Less shelter hardship	-\$543.29
Net Adjusted Income (NAI)	\$962.13
BENEFIT CALCULATION	
Thrifty Food Plan for # Person/s	\$192.00
Less 30% of NAI	-\$289.00
SNAP award	\$00.00

40. For ██████ 2019, the Department correctly calculated the Defendant's SNAP benefit as \$00.00. Although the Department miscalculated the Defendant's gross wages for ██████ 2019, the result is the same; the calculated SNAP benefit is \$00.00.

INCOME	
Earned Income ("EI")	\$2,513.07
Less 20% EI deduction	-\$00.00
Total	\$2,513.07
Plus Unearned Income	+\$00.00
Total	\$2,513.07
Less standard deduction	-\$164.00
Adjusted gross income	\$2,349.07
SHELTER COSTS	
Rent	\$560.00
SUA	+\$736.00
Total shelter costs	\$1,296.00
SHELTER HARDSHIP	
Shelter costs	\$1,296.00
Less 50% of adjusted gross income	-\$1,174.53

Total shelter hardship	\$121.47 (Can not exceed \$552 unless elderly or disabled)
ADJUSTED NET INCOME	
Adjusted gross income	\$2,349.07
Less shelter hardship	<u>-\$121.47</u>
Net Adjusted Income (NAI)	\$2,227.60
BENEFIT CALCULATION	
Thrifty Food Plan for # Person/s	\$192.00
Less 30% of NAI	<u>-\$669.00</u>
SNAP award	\$00.00

41. "A recipient claim is an amount owed because of benefits that are overpaid." 7 CFR § 273.18(a)(1)(i)

"This claim is a Federal debt subject to this and other regulations governing Federal debts. The State agency may establish and collect any claim by following these regulations." 7 CFR § 273.18(a)(2)

"An overpayment is the amount of financial or medical assistance paid to or on behalf of the assistance unit, or the amount of the Food Stamp allotment issued to an assistance unit, in excess of the amount to which the unit is properly entitled." UPM § 7000.01

42. *Types of Claims:* There are three types of claims: 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." 7 CFR § 273.18(b)(1)

"The Department classifies errors as agency, recipient, or provider caused." UPM § 7005.10(A)(1)

"If an overpayment is caused by the assistance unit, the Department makes a preliminary determination regarding whether the error was intentional or unintentional, and whether to pursue a legal action against the assistance unit on fraud charges." UPM § 7005.10(A)(2)

"Recipient errors which cause overpayments are either intentional or unintentional. If the Department does not seek a penalty against the assistance unit, either through a court procedure or through the Administration Disqualification Hearing process, recipient error is classified as unintentional." UPM § 7005.10(C)(2)(c)

43. The Department correctly determined the SNAP overpayment as intentional recipient error because the Defendant failed to report employment and a change of household income of \$100 or more on the PRF submitted by the Defendant on [REDACTED] 2019.

44. Federal regulation provides as follows:

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. A household shall not be held liable for a claim because a change in household circumstances which it is not required to report in accordance with § 273.12(a)(1). Individual shall not be disqualified for failing to report a change, unless the individual is disqualified in accordance with the disqualification procedures specified in § 273.16.

7 C.F.R. § 273.12(d)

Department provides as follows:

This chapter outlines the steps the Department takes when it discovers that an assistance unit has received benefits in an amount either less than or greater than that to which it is entitled. The process consists of identifying the error; determining who caused the error; computing the amount of the error; determining how to correct the error; notifying the assistance unit of the error; and actually correcting the error.

UPM § 7005

"The Department becomes aware of a benefit error in many different ways, including, but not limited to, the following: labor match, motor vehicle match, bank match, social security match, other collateral contacts, assistance unit statement, Department internal control, qualify control report, fair hearing decision, court decision." UPM § 7005.05

"The Department recoups an overpayment or that part of an overpayment which occurs within the following time periods. The Department recoups an overpayment caused by intentional recipient error if the overpayment occurred no earlier than 72 months prior to the month the Department discovers it." UPM § 7045.10(A)(3)

45. Federal regulation provides as follows:

As a State agency, you must calculate a claim back to at least twelve months prior to when you become aware of the overpayment and for an IPV claim, the claim must be calculated back to the month the act of IPV first occurred and for all claims, don't include any amounts that occurred more than six years before you became aware of the overpayment.

7 C.F.R. § 273.18(c)(1)(i)

Department policy provides as follows:

The Department recoups an overpayment or that part of an overpayment which occurs within the following time periods. The Department recoups an overpayment caused by intentional recipient error if the overpayment occurred no earlier than 72 months prior to the month the Department discovers it.

UPM § 7045.10(A)(3)

Federal regulation provides as follows:

The actual steps for calculating a claim are:

- A. Determine the correct amount of benefits for each month that a household received an overpayment.
- B. Do not apply the earned income deduction to that part of any earned income that the household failed to report in a timely manner when this act is the basis for the claim unless the claim is an AE claim then apply the earned income deduction.
- C. Subtract the correct amount of benefits from the benefits actually received. The answer is the amount of the overpayment unless this answer is zero or negative then dispose of the claim referral.

7 C.F.R. § 273.18(c)(1)(ii)

“The Department computes the amount of the overpayment by comparing the amount of the benefit which the assistance unit received and cashed during a month or series of months to the amount of the assistance unit should have received during that period.” UPM § 7045.15(A)

“The Department computes the amount of the error by comparing the amount of the benefits the assistance unit actually did receive for a particular month or series of months.” UPM § 7005.15(A)

“The Department uses the rules pertinent to the program in which the error occurred at the time of the error in computing the assistance unit's

eligibility and amount of benefits the unit should have received.” UPM § 7005.15(B)

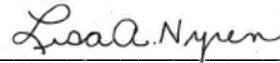
46. The Department correctly determined the Defendant overpaid \$1,152.00 for the period [REDACTED] 2019 through [REDACTED] 2019.

Month	Received	Entitled	Overpayment	Subject to Recoupment
[REDACTED] 2019	\$192.00	\$00.00	\$192.00	\$192.00
[REDACTED] 2019	\$192.00	\$00.00	\$192.00	\$192.00
[REDACTED] 2019	\$192.00	\$00.00	\$192.00	\$192.00
[REDACTED] 2019	\$192.00	\$00.00	\$192.00	\$192.00
[REDACTED] 2019	\$192.00	\$00.00	\$192.00	\$192.00
[REDACTED] 2019	\$192.00	\$00.00	\$192.00	\$192.00
Totals	\$1,152.00	\$00.00	\$1,152.00	\$1,152.00

DECISION

With regard to the Intentional Program Violation under the SNAP and the Department’s request to disqualify the Defendant from SNAP for a period of 12 months, the Defendant is found guilty.

With regard to the Department’s request to recover the overpayment claim of \$1,152.00 for the period [REDACTED] 2019 through [REDACTED] 2019, the appeal is granted.



Lisa A. Nyren
Fair Hearing Officer

CC: OLCRAH.QA.DSS@ct.gov
Salvatore Tordonato, 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.