

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 # ██████████
SNAP EDG # ██████████
Request # 151764

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 misrepresenting her household composition. The Department also seeks to recover overpaid SNAP benefits of \$628.00.

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 her rights in these proceedings via certified mail.

The United States Postal Service (“USPS”) attempted delivery of the notification on ██████████ 2020. The Defendant did not accept delivery. On ██████████ 2020 the notification was sent via first class mail, as of this date the first class mail notification was not returned by the USPS as undeliverable.

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). The Defendant was not present at the hearing. The Defendant did not show good cause for failing to appear

PRESENT AT THE HEARING

Nicholas Coco, Department Representative
Marci Ostroski, Hearing Officer

A separate hearing decision will be issued regarding the Administrative Disqualification of the Temporary Family Assistance Program.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Defendant committed an intentional program violation (“IPV”) of the SNAP.

A secondary issue to be decided is whether the Department’s proposal to recoup a SNAP overpayment of \$628.00 for the period [REDACTED] 2019, through [REDACTED], 2019, is correct.

FINDINGS OF FACT

1. The Defendant was a recipient of SNAP benefits as a household of one. (Department’s testimony)
2. On [REDACTED], 2019, the Defendant gave birth to two children; [REDACTED] and [REDACTED]. The children remained in the hospital. (Ex. 2: DCF Verification)
3. On [REDACTED], 2019, the Defendant appeared at the Department’s regional office to add the children onto her SNAP and Temporary Family Assistance (“TFA”) benefits. The Defendant reported no other income and no shelter expenses. The Defendant reported that the children were in her home. Under the question, “Does anyone in the household reside in one of the following facility types: Hospital...” the Defendant responded “no”. The Defendant signed the Eligibility Determination Document (“EDD”) reflecting that [REDACTED] and [REDACTED] were in her household. The EDD stated, in part, “I certify under penalty of perjury that all of the information given on this form is true and complete to the best of my knowledge. (Ex. 3: Eligibility Determination Document/Misstatement)
4. Effective [REDACTED] 2019, the Defendant’s TFA income increased to \$597.00 per month with the addition of the two children. (Ex. 6: Benefit History Search)

5. On [REDACTED] 2019, [REDACTED] was discharged from the hospital to the care of his father and was subsequently removed from the father's care and placed into custody of the Department of Children and Families ("DCF") on [REDACTED], 2019. (Ex. 2: DCF Verification)
6. On [REDACTED] 2019, [REDACTED] was discharged from the hospital to DCF custody. (Ex. 2: DCF Verification)
7. The Defendant did not have custody of the children at any point from the date of their birth through her application for assistance for them. (Hearing Record, Facts 4 and 5)
8. The Defendant received the following SNAP benefits for a household of three.

Month	SNAP
[REDACTED] 2019	\$375.00
[REDACTED] 2019	\$380.00

(Ex. 6: Benefit History Listing)

9. On [REDACTED] 2019, the Department received an email from DCF that the children had at no time been in the Defendant's care and that they understood that she was collecting SNAP benefits for them from the Department. (Ex. 2: DCF Verification)
10. On [REDACTED], 2019, the Department recalculated the Defendant's SNAP benefits beginning for the months of [REDACTED] 2019 and [REDACTED] 2019 as a household of one with \$597.00 in unearned income and zero shelter expenses. There was no evidence that the Defendant received an Energy Assistance payment in the 2019 calendar year. (Hearing summary, Department's testimony, Ex. 4: W1216 SNAP Computation Sheets)

11. The Department determined the Defendant was eligible for the following SNAP benefits based on a household of one.

Month	SNAP
[REDACTED] 2019	\$62.00
[REDACTED] 2019	\$65.00

(Ex. 4: W1216 SNAP Computation Sheets)

12. The Department determined the Defendant committed an intentional program violation and fraudulently received SNAP benefits for the period [REDACTED] 2019 through [REDACTED] 2019 because she misrepresented her household composition on her [REDACTED] 2019, Eligibility Determination Document. (Department Representative's Testimony, Hearing Summary)

13. The Department determined the Defendant was overpaid SNAP benefits in the following amounts for the period [REDACTED] 2019 through [REDACTED] 2019 totaling \$628.00. (Ex. 4: W1216 SNAP Computation Sheets)

Month	Overpayment
[REDACTED] 2019	\$313.00
[REDACTED] 2019	\$315.00

14. The Department is seeking to disqualify the Defendant from participating in the SNAP for a period of one year due to a first offense Intentional Program Violation (“IPV”). (Hearing Record)
15. The Department is seeking to recoup \$628.00 in overpaid SNAP benefits from the Defendant. (Hearing Record)
16. On [REDACTED] 2019, the Department sent the Defendant a Notice of Prehearing Interview advising that she was being charged with an intentional Program Violation in SNAP benefits and that there was an \$628.00 overpayment related to the IPV. The notice scheduled an appointment with the Defendant for [REDACTED] 2020, if she wanted to discuss the charges and the overpayment. (Ex. 1: W1448-Notice of Prehearing Interview and W-1449 Waiver of Disqualification Hearing SNAP Program)
17. On [REDACTED] 2019, the Department sent the Defendant a W1449 Waiver of Disqualification Hearing form. (Ex. 2: W1448-Notice of Prehearing Interview and W-1449 Waiver of Disqualification Hearing SNAP Program)
18. The Defendant did not return the Waiver of Disqualification form. She did not appear at the [REDACTED], 2020, appointment and did not contact the Department to discuss the charges. (Department’s testimony)
19. The Defendant was not present at the hearing. The Defendant did not show good cause for failing to appear. (Hearing record)

CONCLUSIONS OF LAW

1. Section 17b-2(7) of the Connecticut General Statutes 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. Section 17b-88 of the Connecticut General Statutes provides that 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 shall 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.
3. Title 7 of the Code of Federal Regulations (“CFR”) § 273.16(a)(1) provides that 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.

Uniform Policy Manual (“UPM”) § 7050.05(B)(1) provides that the following situations involving alleged intentional recipient errors are referred to the Administrative Disqualification Hearing process at the option of the Department: those cases involving active and previously active assistance unit members alleged to have committed acts of intentional recipient errors which are not referred to the State Police, to a prosecuting authority or to the Attorney General.

4. Title 7 of the CFR § 273.16(e) provides that the State agency shall conduct administrative disqualification hearings for individuals accused of an Intentional Program Violation (“IPV”) in accordance with the requirements outlined in this section.

UPM § 7050 provides that 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. Individual 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.

5. Title 7 of the CFR § 273.16(c) provides that 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 for the purpose of using, presenting, transferring, acquiring, receiving, or possessing, or trafficking of coupons, authorization cards, or reusable documents used as part of an automated benefit delivery system (access device).

UPM § 7000.01 defined 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 § 7005.10(C)(2)(a) provides that 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.
6. Title 7 of the CFR § 273.16(e)(6) provides that 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.

UPM § 7050.05(A)(1) provides that the Department considers an overpayment to be the result of an intentional recipient error if:

- a. A court of competent jurisdiction decrees that the assistance unit member has committed an intentional recipient error or grants individual accelerated rehabilitation; or
 - b. The Department, through the Administrative Disqualification hearing process, determines that the assistance unit member has committed an intentional recipient error; or
 - c. The assistance unit member waives his or her right to an Administrative Disqualification Hearing.
7. The Hearing Record established with clear and convincing evidence that the Defendant intentionally violated the SNAP regulations or departmental policy by misrepresenting her household composition on the EDD.
8. 7 CFR § 273.16(b) identifies the disqualification penalties 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: (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.

9. The Department is correct to seek the disqualification of the Defendant from participating in the SNAP program for a period of twelve (12) months.
10. The Department correctly determined the Defendant was overpaid as the result of an intentional program violation for the period [REDACTED] 2019, through [REDACTED] 2019 due to misrepresentation of household composition.
11. Title 7 CFR § 273.16(b)(12) provides that even though the individual is disqualified, the household, as defined in § 273.1, is responsible for making restitution for the amount of any overpayment. All intentional Program violation claims must be established and collected in accordance with the procedures set forth in § 273.18.
12. Title 7 CFR § 273.18(a)(2) provides that a claim for overpaid benefits represents a Federal debt and that the State agency must develop an adequate plan for establishing and collecting claims.
13. UPM § 7045.15(E) provides that an overpayment caused by intentional recipient error begins the first date covered by an erroneously issued benefit, and ends the last day of the month the Department becomes aware of the error.
14. UPM § 7045.10(A)(3) provides that 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
15. The Department was correct to seek recoupment of the \$628.00 overpayment from the time period of [REDACTED] 2019 through [REDACTED] 2019.

DECISION

1. The Defendant is **GUILTY** of committing a first intentional program violation in the SNAP program by misrepresenting her household composition. The Department's request that the Defendant be disqualified and ineligible to participate in the program for a period of one year is granted.
2. With regard to the Department's request to recover the overpayment of \$628.00, the request is **GRANTED**.



Marci Ostroski
Fair Hearing Officer

CC: OLCRAH.QA.DSS@ct.gov
Nicholas Coco, Fraud 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, 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.