

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3730

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

Case Id # ██████████
Client Id # ██████████
Request # 152986
SNAP EDG # ██████████

ADMINISTRATIVE DISQUALIFICATION HEARING
NOTICE OF DECISION
PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

The Department of Social Services (the “Department”) requested an Administrative Disqualification Hearing (“ADH”) prohibiting ██████████ (the “Defendant”) from participating in the Supplemental Nutritional Assistance Program (“SNAP”) for one year. The Department alleged the Defendant committed an Intentional Program Violation (“IPV”) by engaging in the trafficking of his SNAP Electronic Benefits Card (“EBT”). This is the Defendant’s first SNAP IPV offense.

On ██████████ 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) mailed the Defendant notification of the initiation of the ADH process via certified mail. The Defendant accepted the delivery of the ADH notice.

On ██████████ 2020, under section 17b-88 of the Connecticut General Statutes and Title 7, section 273.16(e) of the Code of Federal Regulations (“C.F.R.”), OLCRAH conducted an ADH by telephone. The Defendant did not call into the hearing. The Defendant did not show good cause for failing to appear for the ADH.

The following individuals participated in the hearing:
Catherine Scillia, Department’s Representative
Christopher Turner, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Defendant committed an IPV of the SNAP, and is subject to disqualification from the program for 12 months.

FINDINGS OF FACT

1. The Defendant is a SNAP recipient of a household of one. (Exhibit 2: Household Composition Impact record; Department's testimony)
2. On ██████████ 2019, the Defendant requested replacement of his EBT card. (Exhibit 5: EBT Card replacement history)
3. On ██████████ 2019, the Defendant's EBT card was used to make a \$16.05 purchase at 6:05 pm. (Exhibit 14: EBT Transaction history)
4. On ██████████ 2019, the Defendant's EBT card was used to make a \$144.60 purchase at 11:35 am and a \$47.40 purchase at 11:38 am. (Exhibit 14: EBT Transaction history)
5. On ██████████ 2019, a State of Connecticut Department of Correction ("DOC") employee mailed the Department four EBT cards found in the possession of inmate ██████████ upon his intake to ██████████ Correctional Facility on ██████████ 2019. One of the EBT cards confiscated was the card issued to the Defendant on ██████████, 2019. (Exhibit 4: DOC Correspondence; Exhibit 5)
6. On ██████████ 2019, the Defendant requested replacement of his EBT card. (Exhibit 5)
7. On ██████████ 2019, the Defendant requested replacement of his EBT card. (Exhibit 5)
8. On ██████████ 2019, the Department issued the Defendant a Notice of Excessive EBT Card Replacement ("W-3006"). The notice informed the Defendant that he has requested seven replacement EBT cards in the last twelve months. Also, the notice reminded the Defendant that exchanging your EBT card for cash or trading or selling your SNAP EBT benefits as well as allowing a non-SNAP unit member to use the EBT card to buy groceries for themselves could be considered trafficking. (Exhibit 6A: W-3006)
9. On ██████████ 2019, the Department mailed the Defendant a Notice of Prehearing Interview, form W-1448, as well as Waiver of Disqualification Hearing SNAP program, form W-1449, to the Defendant informing him of an appointment at the New Haven DSS office at 10:00 a.m. on ██████████, 2019, to discuss the Department's alleged SNAP trafficking claim against the Defendant. (Exhibit 12: W-1448 and W-1449)

10. The Defendant did not attend nor contact the Department's representative before the [REDACTED] 2019 meeting date. (Record; Hearing summary)
11. On [REDACTED] 2019, the Department mailed the Defendant a Notice of Prehearing Interview, form W-1448, as well as Waiver of Disqualification Hearing SNAP program, form W-1449, to the Defendant informing him of an appointment at the New Haven DSS office at 10:00 a.m. on [REDACTED] 2019, to discuss the Department's alleged SNAP trafficking claim against the Defendant. (Exhibit 13: W-1448 and W-1449)
12. The Defendant did not attend nor contact the Department's representative before the [REDACTED] 2019 meeting date. (Record; Hearing summary)
13. On [REDACTED], 2019, the Defendant requested replacement of his EBT card. (Exhibit 5)
14. On [REDACTED] 2019, the Department issued the Defendant a Notice of Excessive EBT Card Replacement ("W-3006"). The notice informed the Defendant that he has requested seven replacement EBT cards in the last twelve months. Also, the notice reminded the Defendant that exchanging your EBT card for cash or trading or selling your SNAP EBT benefits as well as allowing a non-SNAP unit member to use the EBT card to buy groceries for themselves could be considered trafficking. (Exhibit 6B: W-3006)
15. On [REDACTED] 2019, the Defendant requested replacement of his EBT card. (Exhibit 5)
16. On [REDACTED] 2019, the Defendant requested replacement of his EBT card. (Exhibit 5)
17. On [REDACTED] 2019, the Department issued the Defendant a Notice of Excessive EBT Card Replacement ("W-3006"). The notice informed the Defendant that he has requested nine replacement EBT cards in the last twelve months. Also, the notice reminded the Defendant that exchanging your EBT card for cash or trading or selling your SNAP EBT benefits as well as allowing a non-SNAP unit member to use the EBT card to buy groceries for themselves could be considered trafficking. (Exhibit 6C: W-3006)
18. On [REDACTED] 2019, the Defendant requested replacement of his EBT card. (Exhibit 5)
19. On [REDACTED] 2019, the Department issued the Defendant a Notice of Excessive EBT Card Replacement ("W-3006"). The notice informed the Defendant that he has requested nine replacement EBT cards in the last twelve months. Also, the notice reminded the Defendant that exchanging your EBT card for cash or trading or selling your SNAP EBT benefits as well as allowing a non-SNAP unit member to use the

EBT card to buy groceries for themselves could be considered trafficking. (Exhibit 6D: W-3006)

20. On [REDACTED] 2020, the Defendant requested replacement of his EBT card. (Exhibit 5)
21. On [REDACTED] 2020, the Department issued the Defendant a Notice of Excessive EBT Card Replacement (“W-3006”). The notice alerted the Defendant that he has requested nine replacement EBT cards in the last twelve months. In addition, the notice reminded the Defendant that exchanging your EBT card for cash or trading or selling your SNAP EBT benefits as well as allowing a non-SNAP unit member to use the EBT card to buy groceries for themselves could be considered trafficking. (Exhibit 6E: W-3006)
22. On [REDACTED] 2020, the Defendant requested replacement of his EBT card. (Exhibit 5)
23. On [REDACTED] 2020, the Department issued the Defendant a Notice of Excessive EBT Card Replacement (“W-3006”). The notice advised the Defendant that he has requested nine replacement EBT cards in the last twelve months. Also, the notice reminded the Defendant that exchanging your EBT card for cash or trading or selling your SNAP EBT benefits as well as allowing a non-SNAP unit member to use the EBT card to buy groceries for themselves could be considered trafficking. (Exhibit 6F: W-3006)
24. The Defendant did not request another EBT card or report his EBT card missing or stolen during the alleged trafficking period of [REDACTED] 2019, through [REDACTED] 2019. (Exhibit 5; Hearing summary)
25. The Defendant does not have an authorized representative or authorized shopper permitted to use his EBT card. (Record; Department’s testimony)
26. The Defendant does not have a previous SNAP disqualification penalty. (Exhibit 11: Electronic Disqualified Recipient System inquiry)

CONCLUSIONS OF LAW

1. Connecticut General Statutes (“Conn. Gen. Stat.”) § 17b-2 provides that the Department of Social Services be designated as the state agency for the administration of (7) the Supplemental Nutrition Assistance Program (“SNAP”) pursuant to the Food and Nutrition Act of 2008.
2. The Department’s Uniform Policy Manual (“UPM”) is the equivalent of state regulation and, as such, carries the force of law.” *Bucchere v. Rowe*, 43 Conn. Supp. 175, 178 (1994) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d 712 (1990)).

3. Conn. Gen. Stat. § 17b-88 provides 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 (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.

7 C.F.R. 273.16(e) provides that the State agency shall conduct administrative disqualification hearings for individuals accused of an Intentional Program Violation.

UPM § 7050 provides that in the Food Stamp program 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, disqualified from the AFDC and/or Food Stamp programs for a specified amount of time.

UPM § 7050.25 (D) (3) provides that if the assistance unit member or his or her representative cannot be located or fails to appear at a hearing without good cause, the hearing is conducted without the assistance unit member being represented.

The Defendant accepted delivery of the ADH notice and did not have good cause for failing to call in for the ADH.

4. 7 C.F.R. § 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 over-issuance caused by a suspected act of intentional Program violation, the State agency shall take action to collect the over-issuance 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.

The Defendant's case has not been referred for civil or criminal prosecution.

5. 7 C.F.R. § 273.16(a)(3) provides that 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 individual 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 the signed disqualification consent agreement in cases of deferred adjudication.

The Defendant did not sign nor return the disqualification consent agreement.

6. 7 C.F.R. § 271.2 provides that the definition of trafficking is (1) The buying, selling, stealing, or otherwise effecting an exchange of SNAP benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone. (6) Attempting to buy, sell, steal, or otherwise affect an exchange of SNAP benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by manual voucher and signatures, for cash or consideration other than eligible food, directly, indirectly, in either complicity or collusion with others, or acting alone.

7 C.F.R. § 273.16(c) provides for the definition of an intentional program violation. Intentional Program violations shall consist of having intentionally: (1) Made a false or misleading statement, or misrepresented, concealed or withheld facts; or (2) Committed any act that constitutes a violation of 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(e)(6) provides for the criteria for determining intentional Program violation. The hearing authority shall base the determination of Intentional Program Violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, an Intentional Program Violation as defined in paragraph (c) of this section.

UPM §7050.05 (B) provides the following situations involving alleged intentional recipient errors are referred to the Administrative Disqualification Hearing process at the option of the Department: 1. 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; 2. those cases involving active and previously active assistance unit members alleged to have committed acts of intentional recipient errors which are referred to the State Police, to a prosecuting authority, or to the Attorney General and subsequently rejected for prosecution, dismissed, dropped or nolleed by the court system.

UPM § 7050.30 (A) (1) provides an individual is disqualified from participating in the AFDC or Food Stamp program if: a. a court determines that he or she is guilty of intentional recipient error or grants the individual accelerated rehabilitation; or b. a determination of an intentional recipient error is made by an Administrative Disqualification Hearing official; or c. the individual signs a waiver of rights to an Administrative Disqualification Hearing.

The Department provided clear and convincing evidence the Defendant intentionally committed a violation of SNAP regulations due to engaging in the trafficking of his ██████████ 2019 EBT card that was found on prisoner ██████████ ██████████ during his admittance to ██████████ Correctional Facility on ██████████ ██████████ 2019. The Defendant did not request replacement of his ██████████ 2019 EBT card that was found on inmate ██████████ until ██████████ 2019.

7. 7 C.F.R. § 273.16(b)(1) provides that individuals found to have committed an intentional program violation either through an administrative disqualification hearing or by a Federal, State or local court, or who have signed either a waiver of right to an administrative 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.

7 C.F.R. § 273.16(e)(8)(i) provides that 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 procedure in paragraph (b) of this section. The same act of intentional Program violation repeated over a period must not be separated so that separate penalties can be imposed.

UPM § 7005.10(A)(3) provides that 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(C)(2)(b) provides that a final determination of intentional recipient error is made: (2) under the AFDC and Food Stamp programs, if the assistance unit is found guilty through the Administrative Disqualification process, or the unit waives its right to the Administrative Disqualification Hearing.

UPM § 7045.40(A) provides that an individual who is found to have committed an intentional recipient error is disqualified from participating in the Food Stamp Program for the time period specified below unless this period is contrary to a court order: (1) one year for the first violation.


The Department correctly determined the Defendant is subject to his first SNAP disqualification penalty for twelve months because he is guilty of committing an IPV as a result of a trafficking violation.

8. 7 C.F.R. § 273.16(e)(2) (iv) provides that within 90 days of the date the household member is notified in writing that a State or local hearing initiated by the State agency has been scheduled, the State agency shall conduct the hearing, arrive at a decision and notify the household member and local agency of the decision. The household member or representative is entitled to a postponement of the scheduled hearing if the request for postponement is made at least 10 days in advance of the date of the scheduled hearing. However, the hearing shall not be postponed for more than a total of 30 days and the State agency may limit the number of postponements to one. If the hearing is postponed, the above time limits shall be extended for as many days as the hearing is postponed.

The issuance of this decision is timely as defined in 7 C.F.R. § 273.16. The Department notified the Appellant on [REDACTED] 2020, and held the administrative hearing on [REDACTED] 2020. This decision, therefore, was due no later than [REDACTED] 2020.

DECISION

The Defendant is guilty of committing his first SNAP IPV due to trafficking. The Defendant is disqualified and ineligible to participate in the SNAP for one year.


Christopher Turner
Hearing Officer

Cc: Rachel Anderson, Operations Manager New Haven
Cheryl Stuart, Operations Manager New Haven
Lisa Wells, Operations Manager New Haven
Catherine Scillia, DSS Investigator New Haven
OLCRAH.QA.DSS@ct.gov

RIGHT TO APPEAL

The defendant has the right to appeal this decision to Superior Court within 45 days of the mailing of this decision. The right to appeal is based on §4-183 of the Connecticut General Statutes. To appeal, a petition must be filed at Superior Court. A copy of the petition must be served upon the Office of the Attorney General, 55 Elm Street, Hartford, CT 06106, or the Commissioner of the Department of Social Services, 55 Farmington Avenue, Hartford, CT 06105-3725. 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 her 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.