

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

██████████ 2021
Signature Confirmation

Case ID # ██████████
Client ID # ██████████
Request # 176764

ADMINISTRATIVE DISQUALIFICATION HEARING
NOTICE OF DECISION
PARTY

██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2021, the Department of Social Services (the "Department") requested an Administrative Disqualification Hearing ("ADH") to seek the disqualification of ██████████ (the "Defendant") from participating in the Supplemental Nutritional Assistance Program ("SNAP") for one (1) year. The Department alleges that Defendant committed an Intentional Program Violation ("IPV") as a result of the Defendant's intentional misuse of someone else's Electronic Benefit Transfer ("EBT") card. The Department seeks to recover the overpaid SNAP benefits of \$██████████ from ██████████ 2021, through ██████████ 2021. This is the Defendant's first IPV offense in the SNAP program.

On ██████████ 2021, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") notified the Defendant of the initiation of the ADH process via certified mail delivery to her address in ██████████. On ██████████ 2021, the Defendant signed for her certified mail per the return receipt. The notification outlined the Defendant's rights in these proceedings. The ADH was scheduled for ██████████, 2021.

On ██████████ 2021, OLCRAH, at the Defendant's request, rescheduled the ADH and notified the Defendant of the initiation of the ADH process via certified mail delivery to her address in ██████████. On ██████████ 2021, the Defendant signed for her certified mail per the return receipt. The notification outlined the Defendant's rights in these proceedings. The ADH was scheduled for ██████████ 2021.

On ██████████ 2021, OLCRAH, at the Department's request, rescheduled the ADH and notified the Defendant of the initiation of the ADH process via certified mail delivery to her

address in [REDACTED]. On [REDACTED] 2021, the Defendant signed for her certified mail per USPS tracking and return receipt. The notification outlined the Defendant's rights in these proceedings. The ADH was scheduled for [REDACTED] 2021.

On [REDACTED] 2021, in accordance with sections § 17b-88 of the Connecticut General Statutes ("Conn. Gen. Stat.") and Title 7 of the Code of Federal Regulations ("C.F.R.") the OLCRAH held an Administrative Disqualification Hearing.

The following individuals were present at the hearing:

[REDACTED] Defendant
 [REDACTED] Defendant's son
 Radu Daha, Department's Representative
 Christopher Turner, Hearing Officer

STATEMENT OF THE ISSUE

The first issue is whether the Defendant committed an IPV of the SNAP program.

The second issue is whether the Department's proposal to disqualify the Defendant from participating in the SNAP program for one year and recover the \$330.90 overpayment is correct.

FINDINGS OF FACT

1. The Defendant is a current recipient of SNAP benefits. (Department's testimony)
2. On [REDACTED] 2017, the Defendant completed and signed a W-1EDD, Eligibility Determination Document. The document outlines the Defendant's rights and responsibilities and states in part that that, "If I break any of the rules on purpose, I can be barred from SNAP from between one year and permanently." It further states that " I am not allowed to use, or have in my possession, an EBT card that is not mine (unless I am an authorized shopper) and not to let others use my card (unless they are an authorized SNAP shopper), "If I intentionally misuse an EBT card, I may no longer get SNAP. Misuse of an EBT card means altering, selling, or trading a card, using some else's card without permission, or exchanging benefits." (Exhibit 5: W-1EDD; Hearing summary)
3. On [REDACTED] 2021, the Defendant's sister [REDACTED] died. (Exhibit 2: [REDACTED] obituary, Defendant's testimony)
4. From [REDACTED] 2021 through [REDACTED] 2021, the Defendant used [REDACTED] EBT card as detailed below:

Transaction Date	Store	Transaction Amount	Eligible Transaction
[REDACTED] 2021	Wal-Mart	\$ 24.60	No

	2021	Cumberland Farms	\$ 9.97	No
	2021	Stop and Shop	\$ 3.59	No
	2021	Cumberland Farms	\$ 5.46	No
	2021	Wal-Mart (on-line)	\$ 200.11	No
	2021	Stop and Shop	\$ 40.10	No
	2021	CVS	\$ 3.60	No
	2021	C-Town	\$ 14.81	No
	2021	Wal-Mart	\$ 3.90	No
	2021	C-Town	\$ 1.70	No
	2021	Stop and Shop	\$ 10.57	No
	2021	Stop and Shop	\$ 12.49	No
Total			\$ 330.90	

(Exhibit 4: EBT Transaction report)

5. On [REDACTED] 2021, the Department initiated an investigation into the improper use of [REDACTED] SNAP EBT card after her death. (Exhibit 1: Impact referral)
6. On [REDACTED] 2021, the Department's representative confirmed with Stop and Shop that the Defendant's store loyalty card was used for four transactions in question. (Exhibit 3: Loyalty card; Hearing summary)
7. On [REDACTED] 2021, the Department calculated SNAP overpayments because of the unauthorized use of [REDACTED] EBT card after her death. The Defendant agrees with the Department's overpayment calculation. The overpayments were calculated as follows:

Transaction Date	Overpayment
[REDACTED] 2021	\$ 24.60
[REDACTED] 2021	\$ 9.97
[REDACTED] 2021	\$ 3.59
[REDACTED] 2021	\$ 5.46
[REDACTED] 2021	\$ 200.11
[REDACTED] 2021	\$ 40.10
[REDACTED] 2021	\$ 3.60
[REDACTED] 2021	\$ 14.81
[REDACTED] 2021	\$ 3.90
[REDACTED] 2021	\$ 1.70
[REDACTED] 2021	\$ 10.57
[REDACTED] 2021	\$ 12.49
Total	\$ 330.90

(Exhibit 4; Exhibit 8: IPV Overpayment; Record; Defendant's testimony)

8. On [REDACTED] 2021, the Department mailed the Defendant a W-1448, Notice of Prehearing Interview, and a W-1449, Waiver of Disqualification Hearing SNAP

Program. The notice indicated that there is an overpayment of \$330.90 for the use of an EBT card that was issued to another client. The notice directed the Defendant to call the Department to schedule an interview to discuss the matter. The Notice pointed out that if she chooses to sign the waiver she must do so by [REDACTED] 2021, or the Department would consider administrative or legal action. The Waiver form indicated that because she broke the rules of the SNAP the Department proposes to disqualify her for a period of one year and levy an overpayment of \$330.90 because of an intentional program violation committed from [REDACTED] 2021, through [REDACTED] 2021. (Exhibit 6: W-1448 and Exhibit 7: W-1449)

9. On [REDACTED] 2021, the Defendant signed the Waiver of Disqualification form requesting to exercise her right to have an administrative hearing. (Exhibit 7; Hearing summary)
10. The Defendant has no prior SNAP Intentional Program Violation penalties. (Exhibit 9: Electronic Disqualified Recipient System Query);Hearing Summary)
11. The Defendant was not listed as a “responsible adult” or an “authorized shopper” on [REDACTED] case. (Record; Hearing Summary; Defendant’s testimony)
12. The Defendant believes that since her sister was eligible at the beginning of the month [REDACTED] and received SNAP for the said month, the benefits were properly issued and available for use. (Defendant’s testimony)

CONCLUSIONS OF LAW

1. Conn. Gen. Stat. § 17b-2 provides that the Department of Social Services is designated as the state agency for the administration of (7) the supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008.

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.

The Department has the authority to initiate and hold Administrative Disqualification Hearings.

2. 7 C.F.R. § 273.16 (a) provides for administrative responsibility. (1) The State agency shall be responsible for investigating any case of an 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.

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

3. 7 C.F.R. §273.16 (e) (3) provides for the advance notice of the hearing. (i) The State agency shall provide written notice to the individual suspected of committing an intentional Program violation at least 30 days in advance of the date a disqualification hearing initiated by the State agency has been scheduled. If mailed, the notice shall be sent either first class mail or certified mail-return receipt requested. The notice may also be provided by any other reliable method. If the notice is sent using first class mail and is returned as undeliverable, the hearing may still be held. (iii) The notice shall contain at a minimum: (A) The date, time, and place of the hearing; (B) The charge(s) against the individual; (C) A summary of the evidence, and how and where the evidence can be examined; (D) A warning that the decision will be based solely on information provided by the State agency if the individual fails to appear at the hearing.

The Defendant acknowledged receipt of the ADH notice that included a summary of the Department's charges and attended the disqualification hearing.

4. 7 C.F.R. § 273.2(n) (1) provides for Authorized Representatives and states that representatives may be authorized to act on behalf of a household in the application process, in obtaining SNAP benefits, and is using SNAP benefits.

7 C.F.R. § 273.2(n)(1)(i) provides that a nonhousehold member may be designated as an authorized representative for the application process provided that the person is an adult who is sufficiently aware of relevant household circumstances and the authorized representative designation has been made in writing by the head of the household, the spouse, or another responsible member of the household.

7 C.F.R. § 273.2(n)(3) provides in part that a household may allow any household member or non-member to use its EBT card to purchase food or meals, if authorized, for the household.

7 C.F.R. § 273.2(n)(c) provides in part that if a State agency has determined that an authorized representative has knowingly provided false information about household circumstances or has made improper use of benefits, it may disqualify that person from being an authorized representative for up to one year.

The Defendant was not an Authorized Representative nor an authorized shopper for her sister.

5. 7 C.F.R. § 271.2 defines trafficking as (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, either directly, indirectly, in complicity or collusion with others, or acting alone.

The Defendant acknowledged that she accessed her sister's EBT card after her death for the transactions in question.

6. 7 C.F.R. § 273.16(c) provides for the definition of Intentional Program Violation. Intentional Program violations shall consist of having intentionally; (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 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, an Intentional Program Violation.

The Defendant intended to commit and committed an IPV when she used her deceased sister's SNAP benefits. The Defendant's use of her deceased sister's benefits is evidence of intent.

The Defendant's deliberate use of her sister's EBT card after her death constitutes an IPV.

7. 7 C.F.R. § 273.16 (b) provides for disqualification penalties and indicates (1) 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.

7 C.F.R. § 273.16(e)(8)(ii) provides that no further administrative appeal procedure exists after an adverse State level hearing. The determination of intentional Program violation made by a disqualification hearing official cannot be reversed by a subsequent fair hearing decision. The household member, however, is entitled to seek relief in a court having appropriate jurisdiction. The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy.

7 C.F.R. § 273.16(e)(8)(iii) provides once a disqualification penalty has been imposed against a currently participating household member, the period of disqualification shall continue uninterrupted until completed regardless of the eligibility of the disqualified member's household. However, the disqualified member's household shall continue to be responsible for repayment of the overissuance which resulted from the disqualified member's intentional Program violation regardless of its eligibility for Program benefits.

The Department is correct to seek the disqualification of the Defendant from participating in the SNAP program for one year. The hearing record clearly and convincingly established that the Defendant intentionally used her deceased sister's SNAP EBT card. The Defendant continued to purchase food for herself using [REDACTED] EBT card on 12 occasions between [REDACTED] 2021, through [REDACTED] 2021, after [REDACTED] death on [REDACTED] 2021, that caused her to receive benefits to which she was not entitled.

8. 7 C.F.R. § 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 any overpayment. All IPV claims must be established and collected in accordance with the procedures set forth in § 273.18.

7 C.F.R. § 273.18(a) provides that (1) A recipient claim is an amount owed because of: (ii) Benefits that are trafficked. Trafficking is defined in 7 C.F.R. 271.2.

7 C.F.R. § 273.18(a)(2) provides that this claim is a Federal debt subject to this and other regulations governing Federal debts. The State agency must establish and collect any claim by following these regulations.

7 C.F.R. § 273.18 (a) (4) provides that the following are responsible for paying a claim: (i) Each person who was an adult member of the household when the overpayment or trafficking occurred.

9. 7 C.F.R. § 273.18 (b) provides for types of claims. There are three types of claims: (1) Intentional Program violation (IPV) any claim for an overpayment or trafficking resulting from an individual committing an IPV. An IPV is defined in §273.16; (2) Inadvertent household error ("IHE") defined as any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the household; (3) Agency error ("AE") defined as any claim for an overpayment caused by an action or failure to take action by the State agency.

The Department correctly determined the overpayment is the result of an IPV.

10. 7 C.F.R. § 273.18 (c) provides for calculating the claim amount - (2) Trafficking related claims. Claims arising from trafficking-related offenses will be the value of the trafficked benefits as determined by: (i) The individual's admission; (ii) Adjudication; or (iii) The documentation that forms the basis for the trafficking determination.

The Defendant is responsible for making restitution for the overpayment because of being found guilty of an IPV.

The Department is correct to seek recoupment from the Defendant for \$330.90 due to trafficking violations.

11. 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 issuance of this decision is timely as defined in 7 C.F.R. § 273.16 (e) (2) (iv). The Department notified the Appellant on [REDACTED] 2021, and held the administrative hearing on [REDACTED] 2021. This decision, therefore, was due no later than [REDACTED] 2021, [REDACTED]

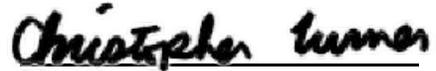
DISCUSSION

The Defendant acknowledged, although not an authorized shopper on her sister's case, she frequently shopped for her sister using her sister's EBT card and had permission from her to do so. However, regulation prohibits the use of an EBT card that is not one's own.

Unfortunately, the Defendant is guilty of committing an IPV in the SNAP by using her deceased sister's EBT card regardless of having previously shopped for her sister. The Defendant is disqualified from the SNAP for one year and is required to make restitution for the overpayment.

DECISION

The Defendant is guilty of committing her first SNAP IPV due to trafficking. The Defendant is disqualified and ineligible to participate in the SNAP for one year. The Department is authorized to seek recovery of \$330.90 in SNAP benefits the Defendant is guilty of having trafficked during the commission of the IPV.



Christopher Turner
Hearing Officer

Cc: Patricia Ostroski, Operations Manager, New Britain
Radu Daha, DSS Hartford
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, 165 Capitol Avenue, 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.