

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT06105-3725

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

Client ID # ██████████
Request # ██████████

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

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 a period of twelve (12) months. The Department alleged that the Defendant committed an Intentional Program Violation (“IPV”). The Department further seeks to recover an alleged overpayment of SNAP benefits in the amount of \$1,919.00.

On ██████████, 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) notified the Defendant of the initiation of the ADH process via signature confirmation delivery. The notice outlined a Defendant's rights in these proceedings.

On ██████████ 2020, a U.S. Postal Service tracking indicated that the notification of administrative hearing had not been received by the Defendant.

On ██████████, 2020, the OLCRAH issued a notice scheduling the administrative hearing for ██████████, 2020. The notice outlined a Defendant’s rights in these proceedings.

On ██████████, 2020, in accordance with sections 17b-60, 17-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held an Administrative Disqualification Hearing.

The following individuals were present at the hearing:

██████████, the Defendant
Richard Yuskas, Investigator, Department's Representative
Roberta Gould, Hearing Officer

STATEMENT OF THE ISSUE

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

FINDINGS OF FACT

1. The Defendant was receiving SNAP assistance for herself, her spouse and her child. (Hearing record)
2. The Defendant has had no prior intentional program violations. (Department's testimony)
3. On ██████████ 2018, the Defendant began working at ██████████. (Exhibit 4: Work # verification and Hearing summary)
4. The Defendant did not report her new employment to the Department. (Hearing summary)
5. On ██████████ 2018, the Defendant submitted a Periodic Report Form ("PRF") to the Department indicating that her household's gross monthly income did not go up or down by more than \$100.00. (Exhibit 6: PRF dated ██████████ and Hearing summary)
6. Beginning in ██████████ of 2018, the Defendant's earnings were in excess of the SNAP 130% Federal Poverty Level threshold for reporting income changes to the Department. (Exhibit 4: Wage verification, Exhibit 5: Income limits & standards chart, and Hearing summary)
7. In ██████ of 2019, the Defendant received Unemployment Compensation Benefits ("UCB") of \$282.00 gross. (Exhibit 3: Unemployment compensation benefit details printout and Exhibit 2: Earned income/UCB chart)
8. On ██████████, 2019, the Defendant received her last pay from ██████████. (Exhibit 4)
9. On ██████████, 2020, the Department submitted a referral to the Investigations Division regarding the discovery of the Defendant's unreported earnings. (Exhibit 1: Regional office referral dated ██████████ and Hearing summary)

10. The Defendant's household was over the income limit for SNAP benefits from [REDACTED] 2018, through [REDACTED] 2019. She was required to report the change in her household's income to the Department no later than [REDACTED] 2018. (Exhibit 8: Overpayment detail and Hearing summary)
11. On [REDACTED] 2020, the Department's Investigations Division completed a *W-262 Report of Suspected Intentional Program Violation Overpayment* form calculating a SNAP overpayment of \$1,919.00 for the period of [REDACTED] 2019, through [REDACTED] 2019, due to unreported earnings. (Exhibit 12: W-262 Report dated [REDACTED])
12. On [REDACTED] 2020, the Department sent the Defendant a *Notice of Supplemental Nutrition Assistance Program Benefit Over Issuance for a Closed Case*, a *Repayment Agreement*, and a *W-1449 Waiver of Disqualification Hearing* form regarding an intentional program violation and informed her that she could repay the amount owed at a time to be determined. (Exhibit 9: Notice of SNAP benefit over issuance dated [REDACTED], Exhibit 10: Waiver of Disqualification Hearing form and Hearing summary)
13. On [REDACTED] 2020, the Department's Investigations Division determined that the Defendant had failed to report wages from her employment with [REDACTED] and had incurred a SNAP overpayment of \$1,919.00 for the period of [REDACTED] 2019, through [REDACTED], 2019. (Exhibit 8, Exhibit 9, Exhibit 10 and Hearing summary)
14. On [REDACTED] [REDACTED] 2020, the Defendant signed the *W-1449 Waiver of Disqualification Hearing* form, indicating that she had read the notice and wished to exercise her right to have an administrative hearing. (Exhibit 10 and Hearing summary)
15. The issuance of this decision is timely under the Code of Federal Regulations § 273.15, which states that a decision must be reached, and the household notified, within 60 days of receipt of a request for a hearing. The Department initially requested an administrative hearing on [REDACTED], 2020, but reissued the notice on [REDACTED], 2020, because the Defendant had not received the original notification. Therefore, this decision is due not later than [REDACTED] 2021.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the SNAP program.
2. 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.

3. "The Department's Uniform Policy Manual ("UPM") is the equivalent of a state regulation and, as such, carries the force of law." (*Bucchere v. Rowe*, 43 Connecticut Supp. 175, 178 (1994) (citing Connecticut General Statutes § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Connecticut 601, 573 A.2d 712 (1990))).
4. UPM § 7050.30(A) provides that 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 established that the Defendant committed an IPV when she failed to report her earnings from [REDACTED].

5. Title 7 of the CFR § 273.16(b) provides that for disqualification penalties, 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.
6. UPM § 7050.30(B)(2)(b) provides for the length of disqualification for the Food Stamp Program. If the intentional recipient error occurred on or after August 1, 1948, the length of the disqualification period as determined as follows:

- (1) The length of disqualification is the length specified by the court order if a court specifies a period of disqualification.
- (2) 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:
 - (a) for the first offense, the length of disqualification is one year;
 - (b) for the second offense, two years; and
 - (c) for the third offense, the disqualification is permanent.

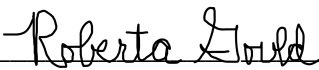
The Defendant is subject to a SNAP disqualification for a period of twelve months as she is found guilty of committing an IPV and this is her first IPV.

7. Section 17b-88 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to recover any public assistance overpayment and take such action as conforms to federal regulations, including, but not limited to, conducting administrative disqualification hearings.
8. UPM § 7045.15(D)(3) provides that in the computation of the overpayment, the overpayment begins as of the date the factor should have been considered in the eligibility determination. In determining this date, the Department allows for the ten day notification period, if appropriate.

The Department is correct to recover the \$1,919.00 overpayment of SNAP benefits that the Defendant received during the period of [REDACTED] 2019, through [REDACTED] 2019, that resulted from unreported earnings.

DECISION

The Department's appeal is **GRANTED**.



Roberta Gould
Hearing Officer

PC: Investigations and Recoveries, DSS Central Office
Richard Yuskas, Investigator, DSS Bridgeport

RIGHT TO APPEAL

The defendant has the right to appeal this decision to Superior Court within 45 days of the mailing of this decision. 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.