

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

Request #165888

Client ID # ██████████

Case ID # ██████████

ADMINISTRATIVE DISQUALIFICATION HEARING
NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

The Department of Social Services (the “Department” or “DSS”) requested an Administrative Disqualification Hearing (“ADH”) because it alleged that the Defendant committed an Intentional Program Violation (“IPV”) in the Supplemental Nutritional Assistance Program (“SNAP”) by deliberately misreporting his household’s income in order to qualify for benefits. The Department proposed to disqualify ██████████ (the “Defendant”) from SNAP participation for a period of one year. The Department also asserted a claim to recover \$960.00 in SNAP benefits it alleged were overpaid to the Defendant as a direct result of his commission of an IPV. The Defendant has not committed any prior IPV offenses in the SNAP program.

On ██████████ 2020, the Department requested that an ADH be scheduled for the Defendant.

On ██████████ ██████████ 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) scheduled the ADH for ██████████ 2020. Notice was sent to the Defendant via certified mail of the initiation of the ADH process. The notice included Information outlining a defendant’s rights in these proceedings and the publication, *List of Legal Services in Connecticut*. The U.S. Postal Service returned signed confirmation to OLCRAH that the certified mail

containing the notice and information was delivered to the addressee on [REDACTED] 2020.

On [REDACTED] 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:

Megan Monroe, Fraud Investigator for the Department
James Hinckley, Hearing Officer

The Defendant was not present at the hearing.

STATEMENT OF THE ISSUES

1. The first issue to be decided is whether the Defendant is subject to a SNAP disqualification penalty for committing an IPV in the SNAP program.
2. The second issue to be decided is whether the Department has a valid claim to recover \$960.00 in SNAP benefits overpaid to the Defendant as a result of his commission of an IPV.

FINDINGS OF FACT

1. The Defendant was certified by the Department to receive SNAP benefits for the period from [REDACTED] 2018 to [REDACTED] 2019. (Hearing Record)
2. On [REDACTED] 2018, the Department issued a Notice of Action (“NOA”) to the Defendant that stated, in relevant part, “Your SNAP period of eligibility is [REDACTED]/2018 to [REDACTED]/2019.... You must...report the following changes to us during your SNAP period of eligibility: 1. If your household’s total monthly gross income is more than \$1,316.00. Total monthly gross income is all wages from working and money you get from any other source before taxes and deductions. ... You must report changes to us by the 10th day of the month following the month of the change. For example, if your income goes over the limit in March you must tell us by [REDACTED] ” (Ex. 1: NOA)
3. The Defendant was certified to receive SNAP for a household of one. He had no responsibility for rent or the cost of utilities. (Hearing Record)
4. The Department utilizes a work verification service, “*The Work Number by Equifax*”, to verify employment and wages for applicants and recipients of assistance who are employed by companies that have contracted to have their data reported by the service. (Hearing Record)

5. The Department confirmed through *The Work Number* that on [REDACTED] 2019, the Defendant started a job with a new employer. (Ex. 3: *Equifax* Consumer Employment & Income Report)
6. In [REDACTED] 2019, the Defendant earned from his job the following gross amounts on the following pay dates: [REDACTED]/2019 - \$246.00; [REDACTED]/2019 - \$255.00; [REDACTED]/2019 - \$249.00; [REDACTED]/2019 - \$561.00; [REDACTED]/2019 - \$484.50. The Defendant's total gross income in [REDACTED] 2019 was \$1,795.50. (Ex. 3)
7. The Defendant was required to report to the Department that his total gross income in [REDACTED] 2019 was \$1,795.50, because the earnings exceeded the \$1,316.00 reporting threshold he was notified of when his case was certified. (Fact #2, Ex. 3)
8. The Defendant did not contact the Department by [REDACTED] 2019 to report that his [REDACTED] 2019 income exceeded \$1,316.00. (Hearing Record)
9. On [REDACTED] 2019, the Department sent the Defendant a Periodic Report Form ("PRF"). The form instructed the Defendant that he had to complete, sign and return the form by [REDACTED] 2019, and explained that the reason he had to complete the form was that he was halfway through his SNAP benefit period and the Department needed to know if he had any changes to report. (Ex. 2: PRF)
10. On [REDACTED] 2019, the Defendant completed and signed the PRF and submitted it to the Department. He reported on the form that he had no employment or income of any kind. The signature box included the language, "The information I am giving is true and complete to the best of my knowledge." (Ex. 2)
11. In [REDACTED] 2019, the Defendant earned from his job the following gross amounts on the following pay dates: [REDACTED]/2019 - \$493.50; [REDACTED]/2019 - \$484.50; [REDACTED]/2019 - \$502.50; [REDACTED]/2019 - \$484.50. The Defendant's total gross income in [REDACTED] 2019 was \$1,965.00. (Ex. 3)
12. The PRF completed and signed by the Defendant on [REDACTED] 2019 did not provide true and complete information. It failed to disclose that the Defendant had been employed since [REDACTED] 2019 and had regular ongoing earnings. (Hearing Record)
13. In [REDACTED] 2019, the Defendant earned from his job the following gross amounts on the following pay dates: [REDACTED]/2019 - \$480.00; [REDACTED]/2019 - \$480.00; [REDACTED]/2019 - \$402.00; [REDACTED]/2019 - \$504.00; [REDACTED]/2019 - \$552.00. The Defendant's total gross income in [REDACTED] 2019 was \$2,418.00. (Ex. 3)

14. In [REDACTED] 2019, the Defendant earned from his job the following gross amounts on the following pay dates: [REDACTED]/2019 - \$480.00; [REDACTED]/2019 - \$477.00; [REDACTED]/2019 - \$351.00; [REDACTED]/2019 - \$567.00. The Defendant's total gross income in [REDACTED] 2019 was \$1,875.00. (Ex. 3)
15. In [REDACTED] 2019, the Defendant earned from his job the following gross amounts on the following pay dates: [REDACTED]/2019 - \$552.00; [REDACTED]/2019 - \$480.00; [REDACTED]/2019 - \$474.00; [REDACTED]/2019 - \$484.50. The Defendant's total gross income in [REDACTED] 2019 was \$1,990.50. (Ex. 3)
16. In [REDACTED] 2019, the Defendant earned from his job the following gross amounts on the following pay dates: [REDACTED]/2019 - \$405.00; [REDACTED]/2019 - \$519.00; [REDACTED]/2019 - \$405.00; [REDACTED]/2019 - \$480.00; [REDACTED]/2019 - \$576.00. The Defendant's total gross income in [REDACTED] 2019 was \$2,385.00. (Ex. 3)
17. In [REDACTED] 2019, the Defendant earned from his job the following gross amounts on the following pay dates: [REDACTED]/19 - \$597.00; [REDACTED]/19 - \$480.00; [REDACTED]/19 - \$240.00. The Defendant's total gross income in [REDACTED] 2019 was \$1,317.00. (Ex. 3)
18. The Defendant received the following monthly SNAP allotments:

[REDACTED] 2019	\$192.00
[REDACTED] 2019	\$192.00
[REDACTED] 2019	\$192.00
[REDACTED] 2019	\$192.00
[REDACTED] 2019	\$192.00
Total	\$960.00

(Ex. 6: Benefit History Listing)

19. On [REDACTED] 2020, the Department notified the Defendant that it believed he broke SNAP rules intentionally and was overpaid \$960.00 in benefits. In the same mailing, the Department set up a pre-hearing interview with the Defendant for [REDACTED] 2020 and sent him a Waiver of Disqualification Hearing form. (Ex. 7: Notice of Pre-Hearing Interview, Ex. 8: Waiver of Disqualification Hearing form)
20. The Defendant did not appear for the [REDACTED] 2020 pre-hearing interview or return the Waiver of Disqualification Hearing form. (Hearing Record)
21. The Defendant has not committed any prior IPV's in the SNAP program. (Ex. 12: edrs query results)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes (Conn. Gen. Stat.) authorizes the Commissioner of the Department of Social Services to administer the SNAP program in accordance with federal law.
2. Conn. Gen. Stat. § 17b-88 authorizes the Commissioner of the Department of Social Services to recover any public assistance overpayment and take such other action as conforms to federal regulations, including, but not limited to, conducting administrative disqualification hearings.
3. Title 7 of the Code of Federal Regulations (“C.F.R.”) section 273.16(a)(1) provides, in pertinent part, 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.... 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...

4. “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...” 7 C.F.R. § 273.16(a)(3)
5. 7 C.F.R. § 273.16(e)(3)(i) provides, in pertinent part, as follows:

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 by 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.

6. 7 C.F.R. § 273.16(e)(3)(ii) provides as follows:

If no proof of receipt is obtained, a timely (as defined in paragraph (e)(4) of this section) showing of nonreceipt by the individual due to circumstances specified by the State agency shall be considered good cause for not appearing at the hearing. Each State agency shall

establish the circumstances in which non-receipt constitutes good cause for not appearing at the hearing. Such circumstances shall be consistent throughout the State agency.

7. 7 C.F.R. § 273.16(e)(4) provides, in pertinent part, as follows:

If the household member or its representative cannot be located or fails to appear at a hearing initiated by the State agency without good cause, the hearing shall be conducted without the household member being represented. Even though the household member is not represented, the hearing official is required to carefully consider the evidence and determine if intentional Program violation was committed based on clear and convincing evidence....In instances where good cause for failure to appear is based upon a showing of nonreceipt of the hearing notice as specified in paragraph (e)(3)(ii) of this section, the household member has 30 days after the date of the written notice of the hearing decision to claim good cause for failure to appear. In all other instances, the household member has 10 days from the date of the scheduled hearing to present reasons indicating a good cause for failure to appear. A hearing official must enter the good cause decision into the record.

8. **The ADH was held in accordance with the requirements in 7 C.F.R. § 273.16(e). Notice of the ADH was sent to the Defendant by certified mail more than 30 days in advance of the hearing and proof of delivery was received. After being properly noticed, the Defendant failed to appear for the ADH. In accordance with regulation, the ADH was conducted without the Defendant being represented.**

9. “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)

10. 7 C.F.R. § 273.16(c) provides as follows:

Definition of 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.

11. “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)

12. **The Department has elected to establish a simplified reporting system pursuant to 7 C.F.R. § 273.12(a)(5).**
13. "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." 7 C.F.R. § 273.12(a)(5)(iii)(B)
14. **The Defendant's SNAP benefits were certified for 12 months, from [REDACTED] 2018 to [REDACTED] 2019. He was required to file a PRF between 4 and 6 months into his certification period.**
15. "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: (1) When the household 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)
16. "*Reporting when gross income exceeds 130 percent of poverty.* A household subject to simplified reporting in accordance with paragraph (a)(5)(i) of this section, whether or not it is required to submit a periodic report, must report when its monthly gross income exceeds the monthly gross income limit for its household size, as defined at § 273.9(a)(1). ..." 7 C.F.R. § 273.12(a)(5)(v)
17. **The Defendant failed to comply with SNAP reporting requirements when he failed to report that his [REDACTED] 2019 income exceeded \$1,316.00, which was the monthly gross income limit for his household size at the time. When income exceeds 130 percent of poverty it must be reported outside of a PRF.**
18. "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..." 7 C.F.R. § 273.12(a)(5)(iii)(C)
19. "Certified change reporting households are required to report the following changes in circumstances: ...(B) 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)
20. **When the Defendant failed to report on his [REDACTED] 2019 PRF that he started a new job it was his second violation of SNAP reporting requirements. The second occasion established that both violations were intentional and not mere oversight. On the second occasion the Defendant signed his name to the PRF which purported to be his**

attestation of “true and complete” information, but which concealed his income from employment.

21. The record establishes by clear and convincing evidence that the Defendant intentionally misrepresented, concealed or withheld facts in violation of SNAP regulations for the purpose of receiving SNAP benefits.

22. The Defendant committed, and intended to commit, an IPV in the SNAP program.

23. 7 C.F.R. § 273.16 (b)(1) provides, in pertinent part, 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...

24. The Defendant is guilty of committing a first IPV in the SNAP program. For a first violation he must be disqualified from participation in SNAP for a period of twelve months

25. “Earned income shall include: (i) All wages and salaries of an employee.” 7 C.F.R. § 273.9(b)(1)(i)

26. The Defendant’s gross earnings were countable for the SNAP determination of eligibility.

27. The Defendant’s SNAP eligibility was determined incorrectly for [REDACTED] 2019 to [REDACTED] 2019, because the Department’s calculations did not include the Defendant’s earnings. Under SNAP reporting requirements, the Defendant was required to report his earnings by [REDACTED] 2019. [REDACTED] 2019 was the first month the change was required to be reflected under SNAP rules, and the first month the Defendant was overpaid.

28. For the period from [REDACTED] 2019 to [REDACTED] 2019, the Defendant’s lowest earnings occurred in [REDACTED] 2019 when he earned \$1,317.00. If the Defendant was not eligible for SNAP in [REDACTED] 2019 due to income, then he was not eligible for [REDACTED] 2019 to [REDACTED] 2019.

29. In the SNAP benefit determination, household income and deductions are calculated pursuant to 7 C.F.R. § 273.9. Net income and SNAP benefit levels are then calculated pursuant to 7 C.F.R. § 273.10(e). In the

Defendant's case, one provision in 7 C.F.R. § 273.18 also applies to the calculation of benefits. The eligibility calculations for the Defendant's household for [REDACTED] 2019 are as follows:

Only certain income deductions are allowable in the calculation of SNAP benefits. The household expenses which may be used as deductions are described in paragraphs (d)(1) to (d)(6) of 7 C.F.R. § 273.9.

The *standard deduction* for a household size of one to six persons is equal to 8.31 percent of the monthly net income standard for each household size established under § 273.9(a)(2) rounded up to the nearest whole dollar. 7 C.F.R. § 273.9(d)(1)

The Defendant's household qualified for a *standard deduction* of \$164.00, which was the deduction in effect in [REDACTED] 2019 for a household of one person.

"[D]o 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)(B)

The Defendant did not qualify for any of the other four remaining deductions provided for in paragraphs (d)(1) to (d)(5) of 7 C.F.R. § 273.9, the *earned income deduction*, *excess medical deduction*, *dependent care deduction*, or *child support deduction*. Although the Defendant had earnings, he was not entitled to the *earned income deduction* in the calculation of any overpayment claim, because the reason for the overpayment was his failure to timely report the earnings.

7 C.F.R. § 273.9(d)(6)(ii) provides for the *excess shelter deduction*. Monthly shelter expenses in excess of 50 percent of the household's income after all other deductions in paragraphs (d)(1) to (d)(5) of 7 C.F.R. § 273.9 have been allowed, are allowed as an excess shelter deduction.

The Defendant had no shelter expenses. He did not pay rent or other housing costs, or utilities. He, therefore, did not qualify for any excess shelter deduction.

The Defendant's *net income* after all deductions allowed pursuant to SNAP was \$1,153.00 (\$1,317.00 total gross income, minus \$164.00 *standard deduction*).

"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...." 7 C.F.R. § 273.10(e)(2)(ii)(A)

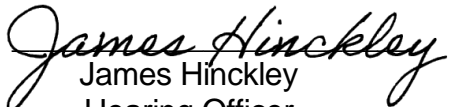
30% of the Defendant's household's net monthly income was \$345.90 (\$1,153.00 multiplied by .3). The figure is rounded up to \$346.00 pursuant to 7 C.F.R. 273.10(e)(2)(ii)(A)(1).

The maximum SNAP allotment (known as the "thrifty food plan") for a household of one person for [REDACTED] 2019 was \$192.00

- The Defendant's household did not qualify for a SNAP benefit for [REDACTED] 2019 because 30% of his household's net income was more than the maximum allotment for a household of one person (\$346.00 was more than \$192.00).
30. It follows that the Defendant's household did not qualify for a SNAP benefit for any of the other months from [REDACTED] 2019 to [REDACTED] 2019, because in each of the other months his unreported earnings exceeded his [REDACTED] 2019 income, and the Defendant did not qualify for a benefit for [REDACTED] 2019 due to income that was too high.
31. "A recipient claim is an amount owed because of benefits that are overpaid..." 7 C.F.R. §273.18(a)(1)
32. "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)(2)
33. "An Intentional Program violation (IPV) claim is any claim for an overpayment or trafficking resulting from an individual committing and IPV. An IPV is defined in § 273.16." 7 C.F.R. 273.18(b)(1)
34. "As a State agency, you must calculate a claim back to at least twelve months prior to when you became 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)
35. The month the IPV first occurred was [REDACTED] 2019. This was the first month SNAP rules required the Defendant's earnings to be reflected, had he reported them.
36. The period defined in 7 C.F.R. § 273.18(c)(1) for which the Department must calculate an IPV claim for the Defendant is from [REDACTED] 2019 to [REDACTED] 2019.
37. The total overpayment from [REDACTED] 2019 to [REDACTED] 2019 was \$960.00 (\$192.00, multiplied by 5 months).
38. All \$960.00 in overpaid SNAP benefits were the direct result of the Defendant's commission of an IPV. Accordingly, the Department is authorized to establish an IPV claim to recover the overpaid benefits in accordance with 7 C.F.R. § 273.18.

DECISION

1. The Defendant is **GUILTY** of committing a first IPV in the SNAP program.
2. As a result of committing a first offense IPV, the Defendant is ineligible to participate in SNAP for a period of twelve months.
3. The Department must establish an IPV claim to recover \$960.00 in SNAP benefits overpaid to the Defendant as a result of his commission of an IPV.


James Hinckley
Hearing Officer

cc: OLCRAH.QA.DSS@ct.gov
Megan Monroe

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 Capital Avenue, 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.