

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

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

Client ID # ██████████  
Case ID # ██████████  
Request # 166991

**ADMINISTRATIVE DISQUALIFICATION HEARING**  
**NOTICE OF DECISION**

**PARTY**

██████████  
██████████  
██████████

**REASON FOR HEARING**

On ██████████, 2020, the Department of Social Services requested 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 failing to report household income. The Department also seeks to recover overpaid SNAP benefits of \$576.00.

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 U.S. Postal Service reflected “Status not available” on the tracking number for the ADH notification.

On ██████████, 2020, OLCRAH mailed the Defendant notification of the initiation of the ADH process rescheduled for ██████████ 2021, which included notification of her rights in these proceedings via certified mail.

The U.S. Postal Service reflected "Status not available" on the tracking number for the ADH notification.

On [REDACTED] 2021, the notification was resent via first class mail.

On [REDACTED], 2021, 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**

Ryan Barganier, Department Representative  
Marci Ostroski, Hearing Officer

### **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 \$576.00 for the period [REDACTED] 2019, through [REDACTED] 2019, is correct.

### **FINDINGS OF FACT**

1. The Defendant was a recipient of the SNAP program as a household of one. (Hearing Record)
2. On [REDACTED] 2019, the Defendant was hired for employment at [REDACTED] and she received her first paycheck on [REDACTED], 2019. (Ex. 2: Wage Verification)
3. On [REDACTED] 2019, The Department sent the Defendant a Periodic Report Form ("PRF"). (Ex. 3: PRF)
4. The Defendant completed and signed the PRF on [REDACTED], 2019. The PRF included a statement that read "There is no income for this case. Describe any changes in earned income below" The Defendant did not complete the section regarding earned income. The Defendant checked the box "I have read this form and I have made no changes". (Ex. 3: PRF)

5. The Defendant received the following gross earned income.

Month	Gross wages
████ 2019	\$924.27+\$1141.08=\$2065.35
████ 2019	\$951.63+\$1247.34=\$2198.97
████ 2019	\$1213.05+\$1066.84=\$2279.89

(Ex. 2: Wage Verification)

6. The Federal Poverty Level (“FPL”) for a household of one effective March 2019 was \$1041.00. (Federal Register)

7. Effective March 2019, 130% of the FPL was \$1353.30 (\$1041.00\*1.30=\$1353.30).

8. The Defendant received the following SNAP benefits.

Month	SNAP
████ 2019	\$192.00
████ 2019	\$192.00
████ 2019	\$192.00

(Ex. 8: Benefit History Listing screen)

9. On █████, 2020, the Department’s Investigations unit received a Suspected Intentional Program Violation Fraud Referral. (Hearing Summary)

10. On █████, 2020, the Department received verification of the Defendant’s gross wages through the Work Number wage verification system. (Hearing Summary)

11. The Department recalculated the Defendant’s SNAP benefits beginning █████ 2019 through █████ 2019 due to earned income. (Department’s summary; Ex. 2: Wage Verifications; Ex. 6: W1216 Manual SNAP Computation sheets)

12. The Department determined the Defendant was eligible for the following SNAP benefits based on the unreported income.

Month	SNAP
████ 2019	\$0.00
████ 2019	\$0.00
████ 2019	\$0.00

(Ex. 6: W1216 SNAP Manual Computation sheets)

13. The Department determined the Defendant committed an Intentional Program Violation and fraudulently received SNAP benefits for herself for the period █████ 2019 through █████ 2019 because she failed to report her earned income when it exceeded 130% of the Federal Poverty Level and

misstated her income on her █████ 2019 PRF. (Department Representative's Testimony)

14. The Department determined the Defendant was overpaid SNAP benefits in the following amounts for the period █████ 2019, through █████ 2019, totaling \$576.00. (Ex. 7:W-262CF; Department's summary)

Month	Overpayment
█████ 2019	\$192.00
█████ 2019	\$192.00
█████ 2019	\$192.00

15. On █████ 2020, the Department issued a W-1448 Notice of Prehearing Interview Food Stamp Program informing the Defendant of the overpayment and scheduling the Defendant for a prehearing interview via telephone on █████, 2020. The Department included the W-1449 Waiver of Disqualification Hearing SNAP form. (Hearing Summary, Ex. 1: W1448 Notice of Prehearing Interview, Ex. 1: W1449 Waiver of Disqualification Hearing)
16. On █████, 2020, the Department spoke with the Defendant via telephone regarding the disqualification and overpayment. The Defendant informed the Department that she agreed with the Department's findings. (Hearing Summary, Department's testimony)
17. The Department is seeking to disqualify the Defendant from participating in the SNAP for one year due to a first offense Intentional Program Violation ("IPV"). (Hearing Record)
18. The Department is seeking to recoup \$576.00 in overpaid SNAP benefits from the Defendant. (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 confirms 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.
  4. “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 Conn Supp. 175 178 (194) (citing Conn. Gen. Stat. § 17b-10; Richard V. Commissioner of Income Maintenance, 214 Conn. 601, 573 A.2d712 (1990)).

5. 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.
6. 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.
7. 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.
8. 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).
9. 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.
10. 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.
11. Title 7 of the CFR § 273.12(a)(5)(v) provides for 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). The household shall use the monthly gross income limit for the household size that existed at the time of its most recent certification or recertification, regardless of any subsequent changes in its household size.
12. The Defendant failed to notify the Department of her change in earned income timely when her income exceeded 130% of the Federal Poverty Level for a household of one and on the [REDACTED] 2019 PRF.
13. 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 that demonstrates that the household member(s) committed, and intended to commit, intentional program violation as defined in paragraph (c) of this section.
14. 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.
15. The Hearing Record established with clear and convincing evidence that the Defendant intentionally violated the SNAP regulations or departmental

policy by failing to report her income exceeding 130% of the FPL and misrepresenting her income on the PRF.

- 16.7 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.
17. The Department is correct to seek the disqualification of the Defendant from participating in the SNAP program for a period of twelve (12) months.
18. 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 unreported earnings.
19. 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.
20. 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.
21. 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.
22. 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
23. The Department was correct to seek recoupment of the \$576.00 overpayment from [REDACTED] 2019 through [REDACTED] 2019.



**DECISION**

1. The Defendant is **GUILTY** of committing a first intentional program violation in the SNAP program by failing to timely report and misrepresenting her income. The Department's request that the Defendant is disqualified and ineligible to participate in the program for a period of one year is granted.
2. Concerning the Department's request to recover the overpayment of \$576.00, the request is **GRANTED**.

  
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Marci Ostroski  
Fair Hearing Officer

CC: [OLCRAH.QA.DSS@CT.gov](mailto:OLCRAH.QA.DSS@CT.gov)  
Ryan Barginier, Fraud Investigator

### **RIGHT TO REQUEST RECONSIDERATION**

The defendant has the right to file a written reconsideration request within **15** days of the mailing date of the decision on the grounds there was an error of fact or law, new evidence has been discovered or other good cause exists. If the request for reconsideration is granted, the defendant will be notified within **25** days of the request date. No response within **25** days means that the request for reconsideration has been denied. The right to request a reconsideration is based on §4-181a(a) of the Connecticut General Statutes.

Reconsideration requests should include specific grounds for the request: for example, indicate what error of fact or law, what new evidence, or what other good cause exists.

Reconsideration requests should be sent to: Department of Social Services, Director, Office of Legal Counsel, Regulations, and Administrative Hearings, 55 Farmington Avenue, Hartford, CT 06105.

### **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, 165 Capitol 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.