

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 # ██████████
Client ID # ██████████
SNAP AU # ██████████
Request # 170500

ADMINISTRATIVE DISQUALIFICATION HEARING
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 one (1) year. The Department alleged that the Defendant committed an Intentional Program Violation (“IPV”) because he did not report his income. The Department seeks to recover the overpaid SNAP benefits of \$1305.01. 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. The notification outlined a Defendant’s rights in these proceedings and advised the Defendant of the hearing date as ██████████ ██████████ 2021 at 10:00 AM.

On ██████████ 2021, the United States Postal Services (“USPS”) tracer indicated there was no status update on the certified mail. Since there was no evidence that the Appellant received the certified mail on the ADH, this ADH had to be re-scheduled.

On ██████████ 2021, OLCRAH re-issued the notice to the Defendant regarding the initiation of the ADH process via regular first- class mail.

On [REDACTED] 2021, OLCRAH scheduled the ADH hearing for [REDACTED], 2021.

On [REDACTED], 2021, OLCRAH confirmed that the notification and hearing notice sent via certified mail was signed for by the Defendant.

On [REDACTED] 2021 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 Defendant was not present at the hearing. The Defendant did not show good cause for failing to appear.

The following individuals were present at the hearing:

George L. Jones, Investigator, Department's Representative
Almelinda McLeod, Hearing Officer

STATEMENT OF THE ISSUE

The first issue to be decided is whether the Defendant committed an IPV of the SNAP program and is subject to 12 -month disqualification.

The second issue to be decided is whether the Department's proposal to recoup \$1305.01 in SNAP overpayment is correct.

FINDINGS OF FACT

1. As of [REDACTED] 2021, the defendant is a recipient of the SNAP program. and receiving \$65.00 in SNAP benefits. (Exhibit 6)
2. The Defendant resides at [REDACTED]. The Defendant's mailing address is [REDACTED]. (Hearing record)
3. The defendant is a household of one. (Hearing record)
4. The Defendant was last certified between [REDACTED] 2019 to [REDACTED] 2020. (Hearing record)
5. On [REDACTED], 2019, the Department issued a Notice of Action ("NOA") to the Defendant notifying him that he was found eligible for SNAP benefits receiving pro-rated benefit of \$32.00 effective [REDACTED] 2019 and \$192.00 effective [REDACTED] 2019 going forward. (Exhibit 3, W-1EDD application)

6. The [REDACTED] [REDACTED] 2019 NOA explained the SNAP rules regarding reporting requirements specifically a change to his gross monthly income exceeding \$1316.00 per month must be reported by the 10th day of the month following the month of the change. (Exhibit 3)
7. On [REDACTED] 2019, the Defendant submitted a Periodic Report Form ("PRF") to the Department where he reports "There is no income for this case." (Exhibit 5, PRF)
8. On [REDACTED] 2020, the Department discovered through a Department of Labor ("DOL") interface match, the Defendant was employed with [REDACTED] [REDACTED] (Exhibit 6, W-35)
9. On [REDACTED] 2020, the Department's investigations unit received a referral from the Department citing that the Defendant had misrepresented his income. (Exhibit 1, Update Referral)
10. On [REDACTED] 2020, the Department issued a W-35 Certificate for disclosure of gross wages to [REDACTED]. (Exhibit 6, W-35)
11. On [REDACTED], 2020, the Defendant's employers confirmed the defendant earned his first paycheck on [REDACTED] 2019 and has been continuously employed with [REDACTED] since his start date of [REDACTED] 2019 through to [REDACTED] 2020. (Exhibit 6, W-35)
12. The Department determined that the Defendant's income exceeded \$1316.00 in the month of [REDACTED] 2019. See chart below:

Date paid	Gross wages
[REDACTED] 2019	\$255.00
[REDACTED] 2019	\$1149.25
[REDACTED] 2019	\$1033.80
[REDACTED] 2019	\$472.50
[REDACTED] 2019	\$547.50
TOTAL:	\$3458.05

(Exhibit 6, W-35)

13. The Department determined the Defendant did not report this change by [REDACTED] [REDACTED] 2019 as was required under the reporting requirements. Therefore, the Defendant had been overpaid effective [REDACTED] 2019. (Hearing summary)
14. The Department determined the Defendant received the following SNAP benefits from [REDACTED] 2019 to [REDACTED] 2020. See chart below:

Benefit month	SNAP benefit received
[REDACTED] 2019	\$192.00
[REDACTED] 2019	\$192.00

██████████ 2019	\$192.00
██████████ 2019 (\$194.00 + \$20.01)	\$214.01
██████████ 2019	\$194.00
██████████ 2019	\$194.00
██████████ 2020 (\$192-\$65.00 entitled) *	\$127.00*
Total:	\$1305.01

(Hearing summary, Exhibit 7 -W-1216 SNAP calculations, Exhibit 10, Benefit issuance)

** The Department's ██████████ 2020 calculation is incorrect- The Defendant received \$194.00 - \$65.00 he was entitled to = \$129.00 overpayment.*

15. On ██████████ 2020, the Department issued a W-1448 Notice of Prehearing Interview SNAP Program advising the Defendant broke the rules of the SNAP program and that an overpayment of \$1178.01 resulted from the non-report of his income with ██████████ ██████████. The Defendant was scheduled to attend an appointment for ██████████ 2020 to discuss the charges and the overpayment. (Exhibit 8, W-1448)
16. On ██████████ ██████████ 2020, the Department through the Electronic Disqualification Recipient System ("E-DRS") determined that the Defendant had no prior IPV's or disqualification in the SNAP program and determined that the Defendant had incurred his first violation. (Hearing record, Exhibit 10, E-DRS)
17. On ██████████ 2020, the Department issued a W-1449 Waiver of Disqualification hearing SNAP program advising the Defendant that when someone breaks the rules of a program on purpose; the Department calls it an Intentional Program Violation ("IPV"). The Department disqualifies this person from the SNAP program for a period of one year for a first violation. The disqualification penalty is to begin on ██████████ 2021. The disqualified person cannot obtain SNAP benefits until the disqualification is over. The SNAP overpayment of \$1178.01 was for the period from ██████████ ██████████ 2019 to ██████████, 2020 and the Defendant can pay \$38.00 per month towards the overpayment effective ██████████ 2021. (Exhibit 9, W-1449)
18. The Defendant did not contact the Department in response to the proposed disqualification letter issued on ██████████ 2020, the W-1448, notice of Pre-Hearing interview nor W-1449 Waiver of Disqualification Hearing letters sent to the Defendant by the Department. (Hearing record)
19. The Department clarified for the record that the SNAP overpayment is \$1305.01 and not \$1178.01 indicated in the W-1448 and W-1449. (Hearing summary)

20. There were no mitigating circumstances to substantiate that the Defendants program violation was unintentional. (Hearing record)
21. On [REDACTED] 2021, OLCRAH sent the Administrative Disqualification hearing scheduled for [REDACTED] 2021 and the Department's hearing summary to the Defendant to his mailing address [REDACTED] via certified mail. (Hearing Officer's Exhibit A: Certified Mail packet and receipt)
22. As of [REDACTED] 2021, the USPS tracer indicated there was no status update on the certified mail. There was no verification that the Defendant received the ADH packet. (Hearing record)
23. On [REDACTED] [REDACTED] 2021, OLCRAH manually sent the Administrative Disqualification hearing along with the Department's hearing summary to the Defendant. (FH, Exhibit B)
24. On [REDACTED] [REDACTED] 2021, OLCRAH re-scheduled the Administrative Disqualification hearing for [REDACTED] 2021 at 10:00 am. (FH, Exhibit C- W-3000FH, Notice of Administrative Hearing notice)
25. On [REDACTED] [REDACTED] 2021, the Defendant received the Administrative Disqualification hearing packet sent by certified mail and signed for it. (FH, Exhibit D: Certified Mail receipt)
26. On [REDACTED] 2021, the Defendant was not present for the Administrative Disqualification Hearing and did not show good cause for failing to appear. (Hearing record)

CONCLUSIONS OF LAW

1. Section 17b-2 (7) of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the SNAP program.
2. 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 other action as conforms to federal regulations, including, but not limited to, conducting administrative disqualification hearings for cases involving alleged fraud in the Supplemental Nutrition Assistance Program, SNAP.

3. Title 7 of the Code of Federal Regulations (“CFR”) 273.16 (e) provides that the State agency shall conduct administrative disqualification hearings for individuals accused of Intentional Program Violation.
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, 175 (1994) (citing Conn. Gen. Stat. § 17b-10; Richard v. Commissioner of Income Maintenance, 214 Conn. 601,573 A. 2nd 712 (1990)).
5. Uniform Policy Manual (“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, are disqualified.
6. Uniform Policy Manual (“UPM”) Section 7050 outlines the Administrative Disqualification Hearing process.
7. 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.
- 8. The Defendant was properly informed of the ADH process as the Defendant received and signed for the ADH packet by certified mail.**
- 9. The Defendant was not present at the ADH. The Hearing went forward without the Defendant or a representative present. The Defendant did not show good cause for failing to appear.**
10. 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.
11. Title 7 of the CFR 273.12 (a) (2) provides in part, for households subject to simplified reporting, the household must report changes no later than 10 days from the end of the calendar month in which the change occurred,

provided that the household receives the payment with at least 10 days remaining in the month.

12. UPM § 1010 provides for responsibilities of applicants and recipients and states that the assistance unit, by the act of applying for or receiving benefits, assumes certain responsibilities in its relationship with the Department.
13. UPM §1010.05 provides for supplying information and reporting changes an states in part that (A) the assistance unit must supply the Department in an accurate and timely manner as defined by the Department , all pertinent information and verification which the Department requires to determine eligibility and calculate the amount of the benefits. (B) The assistance unit must report to the Department, any changes which may affect the unit's eligibility or amount of benefits.
14. **The Department correctly determined that the Defendant did not report the change in his employment status when he started employment with [REDACTED] on [REDACTED] 2019.**
15. **The Department correctly determined that the Defendant had the responsibility to report income changes to the Department by [REDACTED] 2019.**
16. **The Department correctly determined the Defendant's income exceeded the 130% FPL in [REDACTED] 2019.**
17. 7 CFR § 273.16 (c) defines intentional Program violation as follows: For purposes of determining through administrative disqualification hearings whether or not a person has committed 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 the Food Stamp Act, the Food Stamp Program Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt, or possession of Food Stamp coupons, authorization cards or reusable documents used as part of an automated benefit delivery system (access device).
18. Regulations of Connecticut State Agencies 17b-198-17 (c) provides that the Department shall investigate and take action in accordance with this subdivision with respect to any past overpayment when such overpayment is discovered, regardless of when the overpayment occurred or whether the overpaid assistance unit's case has been closed.

- 19.7 CFR § 273.16(e)(6) defines the criteria for determining intentional program as follows: 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.
- 20. The Department correctly determined the Defendant misrepresented his income in his PRF application submitted in [REDACTED] 2019.**
- 21. The Department provided clear and convincing evidence that the Defendant started his employment with [REDACTED] on [REDACTED] 2019 and that the Defendant failed to report that income in his PRF form submitted on [REDACTED] 2019.**
- 22. The Department correctly determined that the Defendant committed and intended to commit an Intentional Program violation when he failed to report his income with [REDACTED] in his [REDACTED] 2019 PRF application.**
23. Title 7 CFR § 273.16 (a) (3)(b)(1)(i) states that an individual 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 for a period of twelve months for the first Intentional Program violation.
24. UPM § 7050.30 (B) (2) (b) (1) (a) provides that if an intentional recipient error occurred after August 1, 1984 and the court order does not specify a period of disqualification, the Department determines that for the first offense, the length of the disqualification is one year.
- 25. The Department is correct to seek the disqualification of the Defendant from the SNAP program for a period of one year.**
26. Title 7 CFR 273.18 (a) (1) pertains to claims against the household and provides that a recipient claim is an amount owed because of benefits that were overpaid.
27. UPM § 7000.01 (A) provides the definition of an overpayment and states that an overpayment is the amount of financial or medical assistance paid to or on behalf of the assistance unit, or the amount of the Food Stamp allotment issued to an assistance unit, in excess of the amount the unit is properly entitled.
28. UPM § 7045.15 (A) pertains to overpayments in the SNAP program and states in part and provides a General Description of the Process. The

Department computes the amount of the overpayment by comparing the amount of the benefit which the assistance unit received and cashed during a month or series of months to the amount the assistance unit should have received during that period.

29. UPM § 7045.15 (B) provides the Department follows the policy outlined in Sections 5500 and 6000 to compute the amount of benefits the assistance unit should have received. 1. The Department first evaluates the assistance unit's prospective eligibility for the month. 2. The Department next evaluates the correctness of the Food Stamp allotment received in that month by using the budgeting method in effect at the time the overpayment occurred.
30. UPM § 6010.10(B)(1) provides that the retrospective method is used to calculate benefits in all months after the initial month of eligibility.
- 31. The Department correctly determined that the Defendant was overpaid in SNAP benefits from [REDACTED] 2019 to [REDACTED] 2020.**
- 32. The Department miscalculated the overpayment for the month of [REDACTED] 2020.**
- The Department calculated \$192 as the maximum SNAP benefit amount minus the \$65.00 the Appellant was entitled to receive for [REDACTED] 2020 resulting in a \$127 SNAP overpayment. However, the maximum SNAP amount for a household of one in [REDACTED] 2020 was \$194.00. The correct overpayment calculation is \$194.00 - \$65.00 = \$129.00. The overpayment for [REDACTED] 2020 will be adjusted by \$2.00.**
- 33. The correct overpayment is \$1307.01.**
34. Title 7 of the CFR § 273.18 (a) (2) states that this claim is a federal debt subject to this and other regulations governing federal debts. The State Agency must establish and collect any claims following these regulations.
35. Title 7 CFR 273.18 (a) (1) pertains to claims against the household and provides that a recipient claim is an amount owed because of benefits that were overpaid.
36. Title 7 CFR 273.18 (b) (1) pertains to the type of claim and provides that an intentional Program Violation ("IPV") is any claim for an overpayment or trafficking resulting from an individual committing an IPV.
37. 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.

38. UPM 7045.05 (A) (3) provides that if the overpayment was caused by intentional recipient error, the Department may recoup from the assistance unit containing the person who committed the intentional error.

39. **The Department is correct to seek recoupment of SNAP benefits in the amount of \$1307.01 from the Defendant.**

DISCUSSION

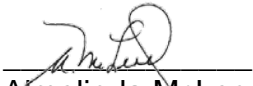
The Department provided clear and convincing evidence that the Defendant intentionally misrepresented his income when he failed to report his new job with [REDACTED] effective [REDACTED] 2019. In addition, he misrepresented his income in his PRF application that was submitted in [REDACTED] 2019. Per regulations, the Defendant had to report when his income exceeded the 130% FPL. In this case, the Defendant's income exceeded the 130% FPL in the month of [REDACTED] which means that the Defendant had an obligation to report this change by [REDACTED] 2019 which is the 10th day of the following month.

DECISION

The Department's appeal is GRANTED.

ORDER

The Defendant is **GUILTY** of committing a first offense intentional program violation of the SNAP program. The Defendant is disqualified from the SNAP program for a period of one year and must make restitution of the SNAP overpayment of \$1307.01.


Almelinda McLeod
Hearing Officer

CC: OLCRAH.QA.DSS@ct.gov
Angela Malena, CFIU Investigations Supervisor
George L. Jones, CFIU Investigator

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.

