

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

██████████ 2021
Signature confirmation

Case: ██████████
Client: ██████████
Request: 171209

SNAP ADMINISTRATIVE DISQUALIFICATION HEARING

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

The Department of Social Services (the "Department") petitioned the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") to conduct an administrative disqualification hearing as to whether ██████████ (the "Defendant") may be barred from participating in the Supplemental Nutrition Assistance Program ("SNAP") for twelve months. The Department alleged that the Defendant had committed an intentional Program violation.

On ██████████ 2021, the OLCRAH issued a *Notice of Administrative Hearing* with a copy of the Department's summary and exhibits to the Defendant by certified mail at his address of record. The *Notice* stated that an administrative disqualification hearing would be held by telephone conferencing on ██████████ 2021 and a decision issued, even should the Defendant not appear.

On ██████████ 2021, the U.S. Postal Service attempted certified mail delivery to the Defendant's address and left the Defendant a notice as to how to arrange for delivery. On ██████████ 2021, the U.S. Postal Service returned the certified mail to the OLCRAH, marked "unclaimed."

On ██████████ 2021, the OLCRAH mailed a second copy of the *Notice* with the Department's summary and exhibits by first-class mail to the Defendant's address, including with the mailing a cover letter requesting his response by ██████████ 2021. As of ██████████ 2021, the Defendant had not contacted the OLCRAH.

On [REDACTED] 2021, the OLCRAH conducted an administrative disqualification hearing in accordance with Title 7, Section 273.16 of the Code of Federal Regulations (“C.F.R.”), and Section 17b-88 of the Connecticut General Statutes by telephone conferencing. The Defendant did not appear and did not request a postponement. The following individuals participated:

George Jones, Department Representative
Eva Tar, Hearing Officer

The hearing record closed [REDACTED] 2021.

STATEMENT OF ISSUE

The issue is whether the Defendant committed an intentional Program violation of the SNAP, permitting the Department to disqualify the Defendant from participating in the SNAP for 12 months.

The Department also seeks affirmation of its intent to recover from the Defendant \$921.00 SNAP benefits for the service months [REDACTED] 2019 through [REDACTED] 2019.

FINDINGS OF FACT

1. The Defendant received SNAP benefits as a household of one. (Department Representative Testimony)
2. Effective [REDACTED] 2019 through [REDACTED] 2020, the Defendant received SNAP benefits. (Exhibits 3, 4, 7, 12, and 15)
3. From [REDACTED] 2019 through [REDACTED], 2019, the Defendant worked for [REDACTED] for \$21.12 per hour, from 30 to 110 hours per week. (Exhibit 8)
4. The Defendant did not disclose his [REDACTED] employment to the Department. (Exhibits 1 and 5) (Department Representative Testimony)
5. From [REDACTED], 2019 through [REDACTED] 2019, the Defendant received \$37,447.28 in gross wages from [REDACTED]. (Exhibit 8)
6. In [REDACTED] 2019, his first full month of employment with [REDACTED] the Defendant received \$6,090.64 in gross wages. (Exhibit 8)
7. On his [REDACTED] 2019 *Periodic Report Form*, the Defendant reported that he had no income, attesting with his signature that he understood that he “could go to prison or be required to pay fines” if he knowingly gave wrong or incomplete information. (Exhibit 5)

8. At the time he signed the [REDACTED] 2019 *Periodic Report Form*, the Defendant had already received \$12,934.39 in gross wages from his [REDACTED] employment; his most recent paycheck of \$1,056.25 had a pay date of [REDACTED] 2019. (Exhibit 8)
9. From [REDACTED] 2019 through [REDACTED] 2019, the Department issued the Defendant \$921.00 in SNAP benefits. (Exhibit 12)
10. From [REDACTED] 2019 through [REDACTED] 2019, the Defendant's gross monthly wages well exceeded \$1,316.00, the SNAP gross monthly income limit for an individual. (Exhibits 8 and 9) (Department Representative Testimony)
11. On or before [REDACTED] 2019, the Department discovered the Defendant had been employed by [REDACTED] in the immediately prior quarter in a match with the Department of Labor. (Exhibit 7)
12. On [REDACTED] 2019, the Defendant began working for [REDACTED] for \$28.50 per hour, for varying hours per biweekly pay period. (Exhibit 8)
13. The Department seeks recovery of \$921.00 in SNAP benefits issued to the Defendant for the service months of [REDACTED] 2019 through [REDACTED] 2019. (Exhibit 10)
14. The Department has not previously sanctioned the Defendant for an intentional Program violation of the SNAP. (Exhibit 11)
15. Title 7, Section 273.16 (e)(2)(iv) of the Code of Federal Regulations ("C.F.R.") 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 U.S. Postal Service would have completed delivery by first class mail of the [REDACTED] 2021 *Notice of Administrative Hearing* to the Defendant of this administrative disqualification hearing on or after [REDACTED], 2021. Therefore, this final decision would become due by [REDACTED] 2021. This decision is timely.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes designates the Department as the state agency for the administration of the supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008.

Section 17b-88 of the Connecticut General Statutes provides in part that the Department may take such 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.

Title 7, Section 273.16 of the Code of Federal Regulations (“C.F.R.”) addresses Program disqualification for intentional Program violations with respect to the SNAP. “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....”

State statute and federal regulation permit the Department to initiate proceedings for an administrative disqualification hearing.

2. “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).

As a condition of SNAP eligibility, the Defendant was required to comply with the SNAP’s periodic reporting requirements.

3. *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. 7 CFR § 273.12 (a)(5)(v).

In [REDACTED] 2019, the Defendant was obligated to report to the Department that his [REDACTED] 2019 gross wages of \$6,090.64 had exceeded \$1,316.00, i.e., 130 percent of the Federal Poverty Level per month for an individual.

The Defendant committed a Program error by failing to report to the Department that his monthly gross income exceeded \$1,316.00.

4. “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 and conform to the requirements of paragraph (b)(2) of this section.” 7 C.F.R. § 273.12 (a)(5)(iii)(C).

“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)(i)(B).

As a condition of SNAP eligibility, the Defendant was required to disclose both his [REDACTED] employment and wages to the Department on his [REDACTED] 2019 Periodic Report Form.

6. *“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.” 7 C.F.R. § 273.16 (c).

The Defendant misrepresented, concealed, or withheld facts when he did not report his [REDACTED] employment and wages to the Department on his [REDACTED] 2019 Periodic Report Form.

The Defendant committed an intentional Program violation of the SNAP by misrepresenting, concealing, or withholding facts regarding his [REDACTED] employment and income to the Department.

7. Title 7, Section 273.16 (b)(1) of the Code of Federal Regulations provides:
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.
- 7 C.F.R. § 273.16 (b)(1).

“The individual must be notified in writing once it is determined that he/she is to be disqualified. The disqualification period shall begin no later than the second month which follows the date the individual receives written notice of the disqualification. The disqualification period must continue uninterrupted until completed regardless of the eligibility of the disqualified individual's household.” 7 C.F.R. § 273.16 (b)(13).

The Department may disqualify the Defendant from participating in the SNAP for 12 months for his first intentional Program violation.

8. “If the State agency discovers that the household failed to report a change as required by paragraph (a) of this section and, as a result, received benefits to which it was not entitled, the State agency shall file a claim against the household in accordance with

§273.18. ... Individuals shall not be disqualified for failing to report a change, unless the individual is disqualified in accordance with the disqualification procedures specified in §273.16.” 7 C.F.R. § 273.12 (d).

Title 7, section 273.18 of the Code of Federal Regulations addresses claims against households. Subsection (c)(1)(ii) provides the methodology for the actual steps for calculating a claim that is unrelated to trafficking.

From [REDACTED] 2019 through [REDACTED], 2019, the Defendant received \$921.00 in SNAP benefits for which he was not eligible.

The Department may recover from the Defendant the \$921.00 in SNAP benefits issued to him for the services months of [REDACTED] 2019 through [REDACTED] 2019.

DECISION

The Department’s request to disqualify the Defendant from participating in the SNAP for 12 months is GRANTED.

The Department’s intent to recover from the Defendant of \$921.00 in excess SNAP benefits issued to him for the service months of [REDACTED] 2019 through [REDACTED] 2019 is AFFIRMED.

This decision does not explore or address SNAP overpayments subsequent to [REDACTED] 2019.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

Cc: George Jones, DSS-Hartford/Windsor
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, 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.