

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 #173793

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 concealing 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 \$2,327.00 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 ██████████ 2021, the Department requested that an ADH be scheduled for the Defendant.

On ██████████ 2021, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) scheduled the ADH for ██████████ 2021. The ADH was scheduled to be held telephonically due to the COVID-19 pandemic. Notice was sent to the Defendant via certified mail of the initiation of the ADH process. The notice contained Information outlining a defendant’s rights in these proceedings and included the publication, *List of Legal Services in Connecticut*. The U.S. Postal Service reported that the certified mail was undeliverable. Duplicate information was mailed to the Defendant by first class mail.

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 following individuals were present at the hearing:

Richard Yuskas, Lead Resource 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 \$2,327.00 in SNAP benefits overpaid to the Defendant as a result of his commission of an IPV.

FINDINGS OF FACT

1. The Defendant was granted SNAP benefits on [REDACTED] 2019. (Hearing Record)
2. The Defendant's SNAP household had one member. (Hearing Record)
3. The Defendant's SNAP benefit was initially calculated based on the Defendant having no income. (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. On [REDACTED] 2019, the Defendant started a new job at [REDACTED]. (Ex. 2: *Equifax* Consumer Employment & Income Report)
6. In [REDACTED] 2019, the Defendant had the following gross wages on the following pay dates: [REDACTED] 2019 - \$769.60; [REDACTED] 2019 - \$1,554.38; [REDACTED]/2019 - \$1,541.45. The Defendant's total gross wages in [REDACTED] 2019 were \$3,865.43. (Ex. 2)
7. The threshold for reporting income changes in the SNAP program effective [REDACTED] 2019 for a household of one person was \$1,354.00, which was equal

to 130% of the federal poverty level for the household size. (Ex.4: Income Limits & Standards for DSS Benefit Programs)

8. The Defendant did not contact the Department by [REDACTED] 2019 to report that his [REDACTED] 2019 income exceeded \$1,354.00. (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. 5: PRF)
10. In [REDACTED] 2019, the Defendant had the following gross wages on the following pay dates: [REDACTED] 2019 - \$1,696.37; [REDACTED] 2019 - \$1,555.13. The Defendant's total gross wages in [REDACTED] 2019 were \$3,252.50. (Ex. 2)
11. 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. 5)
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. The Department issued SNAP allotments to the Defendant for the following months in the following amounts:

[REDACTED] 2019	[REDACTED] 2020	[REDACTED] 2020	[REDACTED] 2020	[REDACTED] 2020	[REDACTED] 2020
\$135.00	\$194.00	\$194.00	\$194.00	\$194.00	\$194.00

[REDACTED] 2020	[REDACTED] 2020	[REDACTED] 2020	[REDACTED] 2020	[REDACTED] 2020	[REDACTED] 2020
194.00	\$194.00	\$194.00	\$232.00	\$204.00	\$204.00

(Ex. 9: Benefit Issuance screens)

14. The Defendant was paid the following total gross earnings on dates in the following months:

[REDACTED] 2019	[REDACTED] 2020	[REDACTED] 2020	[REDACTED] 2020	[REDACTED] 2020	[REDACTED] 2020
\$3,255.31	\$3,408.48	\$3,143.13	\$3,364.69	\$4,686.41	\$3,081.40

████ 2020	████ 2020	████ 2020	████ 2020	████ 2020	████ 2020
\$3,099.89	\$3,857.63	\$3,081.40	\$3,223.45	\$4,677.82	\$3,176.77

(Ex. 2)

15. On █████ 2020, the Defendant's SNAP benefits ended because he failed to timely submit a renewal form. (Hearing Record)
16. In █████ 2020, the Defendant submitted his renewal form late. (Hearing Record)
17. On █████ 2020, the Defendant completed and signed his renewal form. He reported falsely on the form that he had no employment or income of any kind. (Ex. 6: W-1ER Renewal of Eligibility form)
18. The Defendant's SNAP benefits remained closed effective █████ 2020, because the Department made an inquiry to its wage verification service, *The Work Number*, during its processing of the renewal and discovered the unreported wages. (Hearing Record)
19. On █████ 2021, the Department notified the Defendant that it believed he broke SNAP rules intentionally and was overpaid \$2,327.00 in benefits for the period from █████ 2019 to █████ 2020. The mailing also included a Waiver of Disqualification Hearing form. (Ex. 8: ADH Packet)
20. The Defendant has not committed any prior IPV's in the SNAP program. (Ex. 10: 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)(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.

7. **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, after proof of delivery was not received, was resent by first class mail. 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.**

8. “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)

9. 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.

10. “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)

11. The Department has elected to establish a simplified reporting system pursuant to 7 C.F.R. § 273.12(a)(5).

12. “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)

13. The Defendant was required to file a PRF between 4 and 6 months into his certification period.

14. “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)

15. “*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)

16. The Defendant failed to comply with SNAP reporting requirements when he failed to report that his [REDACTED] 2019 income exceeded \$1,354.00, 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.

17. "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)
18. "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)
19. **When the Defendant failed to report on his [REDACTED] 2019 PRF that he started a new job on [REDACTED] 2019, it was his second violation of SNAP reporting requirements. The second violation could not have been an oversight. The Defendant signed his name to a PRF, representing that the information he provided on the form was "true and complete" when, in fact, it concealed his employment income. On [REDACTED] 2020, the Defendant completed and signed a third Department form on which he continued to conceal his ongoing employment.**
20. **It is established 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.**
21. **The Defendant committed, and intended to commit, an IPV in the SNAP program.**
22. 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...
23. **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**
24. "Earned income shall include: (i) All wages and salaries of an employee." 7 C.F.R. § 273.9(b)(1)(i)

25. **The Defendant's gross earnings were countable for the SNAP determination of eligibility.**
26. **The Defendant's SNAP eligibility was determined incorrectly for [REDACTED] 2019 to [REDACTED] 2020, 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 was the first month the Defendant was potentially overpaid.**
27. **For the period from [REDACTED] 2019 to [REDACTED] 2020, the Defendant had monthly earnings that ranged from a low of \$3,081.40 in [REDACTED] 2020 to a high of \$4,686.41 in [REDACTED] 2020.**
28. 7 CFR § 273.9 (a) provides in relevant part that, "Participation in the Program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Households which contain an elderly or disabled member shall meet the net income eligibility standards for the Food Stamp Program. Households which do not contain an elderly or disabled member shall meet both the net income eligibility standards and the gross income eligibility standards for the Food Stamp Program. Households which are categorically eligible as defined in §273.2(j)(2) or 273.2(j)(4) do not have to meet either the gross or net income eligibility standards. The net and gross income eligibility standards shall be based on the Federal income poverty levels established as provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))".

The Appellant's household did not contain a disabled member, thus it was required to meet both the gross and net income eligibility standards for SNAP, except that if the household was determined categorically eligible as defined in 7 CFR § 273.2(j)(2) or § 273.2(j)(4) it was not required to meet either standard.

7 CFR § 273.2(j)(4) discusses categorical eligibility for households in which each member receives benefits from a State or local GA (General Assistance) program.

The Appellant's household did not qualify as categorically eligible under the provisions of 7 CFR § 273.2(j)(4) because no member of his household received GA.

7 CFR § 273.2(j)(2)(i) discusses categorical eligibility for households in which all members receive or are authorized to receive benefits from PA (Public Assistance) or SSI (Supplemental Security Income).

The Appellant's household did not qualify as categorically eligible under the provisions of 7 CFR § 273.2(j)(2)(i) because no household member received SSI or PA.

Paragraph (j)(2)(ii) of 7 CFR § 273.2 discusses a provision whereby State agencies may, at their option, extend broad based categorical eligibility to certain households whose members receive, or are authorized to receive, non-cash or in-kind services from a program whose funding source meets the requirements outlined within the paragraph.

Households in Connecticut with incomes below 185% of the federal poverty level ("FPL") qualify for the State's "Help for People in Need" program, which meets the requirements outlined in 7 CFR § 273.2(j)(2)(ii), allowing the Department to extend broad-based categorical eligibility for SNAP to all such qualifying households.

The 2019 Poverty Guidelines (FPL) for the 48 Contiguous States and the District of Columbia are published in the Federal Register Vol. 84, No 22, February 1, 2019, pp. 1167-1138. The 2019 Poverty Guideline for a household of 1 person was \$12,490 annually or \$1,041.83 monthly. Associated SNAP guidelines are not adjusted until October of the year in which new FPL guidelines are published, thus the 2019 poverty guidelines were not applied for SNAP until October 2019.

185% of the FPL for a household of one person beginning [REDACTED] 2019 was \$1,926.00 monthly. The Appellant's household's gross countable income of \$3,081.40 in his lowest earnings month of [REDACTED] 2020 exceeded 185% of the FPL, thus his household was not eligible for "Help for People in Need" and did not qualify for broad-based categorical eligibility for SNAP under the provisions of 7 CFR § 273.2(j)(2)(ii).

The Appellant's household was required to meet the gross income eligibility standard for SNAP in every month between [REDACTED] 2019 and [REDACTED] 2020, because his household was not categorically eligible in any of the months.

7 CFR § 273.9(a)(1) discusses the gross income eligibility standards for the Food Stamp Program and provides that: (i) "The income eligibility standards for the 48 contiguous States and the District of Columbia, Guam and the Virgin Islands shall be 130 percent of the Federal income poverty levels for the 48 contiguous States and the District of Columbia".

The gross income limit for SNAP for a household of one person, which was 130% of the FPL, was \$1,354.00 per month beginning [REDACTED] 2019.

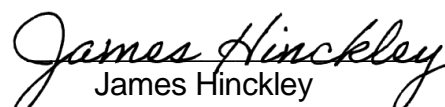
The Appellant's gross income exceeded the SNAP gross income limit in each month from ██████████ 2019 to ██████████ 2020, inclusive. The Appellant was not eligible for any SNAP benefits that were issued to him between ██████████ 2019 and ██████████ 2020.

29. "A recipient claim is an amount owed because of benefits that are overpaid..." 7 C.F.R. §273.18(a)(1)
30. "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)
31. "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)
32. "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)
- 33. The month the IPV first occurred was ██████████ 2019. This was the first month SNAP rules required the Defendant's earnings to be reflected, had he reported them.**
- 34. The period defined in 7 C.F.R. § 273.18(c)(1) for which the Department had to calculate an IPV claim for the Defendant was from ██████████ 2019 to ██████████ 2020.**
- 35. The total overpayment from ██████████ 2019 to ██████████ 2020 was \$2,327.00.**
- 36. All \$2,327.00 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 \$2,327.00 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
Richard Yuskas

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. 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.