

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

Case ID ██████████
Client ID# ██████████
Request # 173906

ADMINISTRATIVE DISQUALIFICATION HEARING
NOTICE OF DECISION

PARTY

██████████
████████████████████
████████████████████

REASON FOR HEARING

On ██████████ ██████████ 2021, 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 \$1746.00.

On ██████████ 2021, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) mailed the Defendant notification of the initiation of the ADH process scheduled for ██████████ 2021, which included notification of the Defendant’s rights in these proceedings via certified mail.

On ██████████ 2021, the certified mail was delivered. The Defendant signed and received the notification.

On ██████████ 2020, 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 following individuals were present at the hearing:

Radu Daha, Department Representative via Telephone
 George Jones, Department Representative, Observer
 Swati Sehgal, Fair Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Defendant committed an intentional program violation (“IPV”) of the SNAP and subject to a twelve (12) month disqualification penalty under the SNAP and whether the resulting overpayment of benefits is subject to recovery.

FINDINGS OF FACT

1. The Defendant received benefits under the SNAP program for the household of one. (Hearing Record)
2. On [REDACTED] 2019, the Defendant started employment with [REDACTED]. (Exhibit 3: Work Number Verification Results)
3. On [REDACTED] 2019, the Department sent the Defendant an NOA which stated in part that if his gross monthly income exceeded, \$1314.00, he must report the change by the 10th of the month following the month of the change. (Exhibit 2: Notice of Action, [REDACTED]/2019)
4. On [REDACTED] 2019, the Defendant signed a Periodic Report Form (“PRF”) on which he failed to report his income from [REDACTED] [REDACTED] (Exhibit 4: PRF dated [REDACTED]/2019, Hearing Summary)
5. On [REDACTED], 2019, the Department processed the Defendant’s PRF and issued a Notice of Action explaining his SNAP benefits and his reporting requirements. It clearly stated that if his monthly gross income exceeds \$1354.00, he must report this change by the 10th day of the month following the month of the change. (Exhibit 5: Notice of Action, [REDACTED]/2019)
6. The Department verified that the Defendant’s employment with [REDACTED] [REDACTED] started on [REDACTED], 2019, and he earned the following Income:

Month	Monthly Gross
[REDACTED] 2019	\$726.00
[REDACTED] 2019	\$2507.63
[REDACTED] 2019	\$2467.00

██████████ 2019	\$2581.89
██████████ 2019	\$1903.13
██████████ 2020	\$3118.13
██████████ 2020	\$2516.25
██████████ 2020	\$3146.00
██████████ 2020	\$2183.50
██████████ 2020	\$3674.00
██████████ 2020	\$2214.50
██████████ 2020	\$2066.00

(Exhibit 3: Work Number Verification)

7. The Department recalculated the Defendant's SNAP benefits beginning ██████████ 2019, through ██████████ 2020, including the unreported earned income. (Hearing Summary and Exhibit 6: SNAP Computation Sheet)
8. The Defendant received the following SNAP benefits from ██████████ 2019, through ██████████, 2020: (Exhibit 6: Benefit Issuance Search)

Issuance Month	Amount Received
██████████ 2019	\$194.00
██████████ 2019	\$194.00
██████████ 2020	\$194.00
██████████ 2020	\$194.00
██████████ 2020	\$194.00
██████████ 2020	\$194.00
██████████ 2020	\$194.00
██████████ 2020	\$194.00
██████████ 2020	\$194.00

9. The Department determined the Defendant was ineligible for benefits under the SNAP program from ██████████ 2019, through ██████████ 2020, after his earned income was applied to the benefit calculation. The Department also determined that the Defendant's earned income caused an overpayment of Snap benefits totaling \$1746.00. (Exhibit 7: Notice of Prehearing Interview, and Waiver of Disqualification Hearing, Exhibit 6: SNAP Computation Sheet, Exhibit 9: Benefit Issuance Search, and Department Representative's Testimony)

Issuance Month	Amount Received	Amount Entitled	Overpayment Amount
██████████ 2019	\$194.00	\$0.00	\$194.00
██████████ 2019	\$194.00	\$0.00	\$194.00
██████████ 2020	\$194.00	\$0.00	\$194.00

██████████ 2020	\$194.00	\$0.00	\$194.00
██████████ 2020	\$194.00	\$0.00	\$194.00
██████████ 2020	\$194.00	\$0.00	\$194.00
██████████ 2020	\$194.00	\$0.00	\$194.00
██████████ 2020	\$194.00	\$0.00	\$194.00
██████████ 2020	\$194.00	\$0.00	\$194.00

10. The Department searched the Electronic Disqualified Recipient System (“eDRS”) by the Defendant’s social security number and found no record of prior disqualifications for the Defendant. (Exhibit 8: eDRS Query)
11. The Department determined the Defendant failed to report his employment on PRF he signed on ██████████ 2019. (Exhibit 4 and Department Representative’s Testimony)
12. The Department determined the Defendant committed an IPV under the SNAP program because he failed to report his income on PRF he signed on ██████████ 2019. (Hearing Record)
13. On ██████████ ██████████ 2020, the Department mailed a W-1448 Notice of Prehearing Interview Food Stamp Program (“W-1448”) and a waiver of disqualification hearing for the SNAP program. The interview was scheduled for ██████████ 2020. The W-1448 charged that the Defendant broke the rules regulating the SNAP by failing to report employment and incurred an overpayment totaling \$1746.00 under the SNAP. The Defendant did not appear for his scheduled prehearing Interview. (Exhibit 7)
14. The Waiver of Disqualification Hearing (“W1449”) notice charges the Defendant with an IPV. The notice notifies the Defendant of an overpayment of \$1746.00 for the period of ██████████ 2019, through ██████████ 2020, repayment options, and gives the Defendant options to voluntarily admit to the violation, voluntarily sign a waiver or exercise his right to an administrative hearing. (Exhibit 7)
15. The Department did not receive a signed W-1449 from the Defendant. (Hearing Record)
16. The Department seeks to disqualify the Defendant from participation in the SNAP program for twelve (12) months due to a first offense intentional Program Violation (“IPV”). (Hearing Record)
17. The Department seeks to recover \$1746.00 in overpaid SNAP benefits. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-2(7) of the Connecticut General Statutes (“CGS”) 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 over issuance caused by a suspected act of intentional Program violation, the State agency shall take action to collect the over issuance 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 the prosecution 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 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. Individuals 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 § 273.16(e)(6) provides that 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.
12. 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.

The Hearing Record established with clear and convincing evidence that the Defendant intentionally violated the SNAP regulations or departmental policy by not reporting his income exceeding 130% of the FPL and misrepresenting his income on the PRF.

13.7 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 the 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.

The Department is correct to seek the disqualification of the Defendant from participating in the SNAP program for a period of twelve (12) months.

The Department correctly determined the Defendant was overpaid as the result of an intentional program violation for ██████████ 2019, through ██████████ 2020 due to unreported income.

14. 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

15. 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.

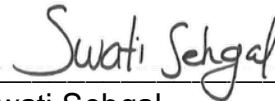
16. UPM § 7045.15(E) provides that an overpayment caused by intentional recipient error begins the first date covered by an erroneously issued benefit and ends the last day of the month the Department becomes aware of the error.

17. UPM § 7045.10(A)(3) provides that the Department recoups an overpayment caused by an intentional recipient error if the overpayment occurred no earlier than 72 months prior to the month the Department discovers it.

The Department was correct to seek recoupment of the \$1746.00 overpayment for ██████████ 2019 through ██████████ 2020.

ORDER

1. The Defendant is **GUILTY** of committing a first intentional program violation in the SNAP program.
2. The Department's appeal to disqualify the Defendant from SNAP and impose the SNAP penalty for twelve months is granted.
3. The Department is authorized to recover \$1746.00 in the overpayment of SNAP Benefits.



Swati Sehgal
Fair Hearing Officer

CC: OLCRAH.QA.DSS@ct.gov
Radu Daha, 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, 55 Elm Street, 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 a 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.