

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: 176083

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 to address 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 her 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 Defendant signed for receipt of the certified mailing.

On ██████████ 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. The Defendant did not appear and did not request a postponement of the proceedings. The following individuals participated by telephone conferencing:

George Jones, Department Representative
Eva Tar, Hearing Officer

The hearing record closed ██████████ 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 allegedly overissued SNAP benefits for the service months of [REDACTED] 2019 through [REDACTED] 2020.

FINDINGS OF FACT

1. The Defendant received SNAP benefits as a household of two: an adult and one child. (Department Representative Testimony)
2. The Defendant's SNAP household has no elderly or disabled individuals as members. (Exhibit 2)
3. On [REDACTED] 2019, the Department received the Defendant's SNAP application. (Exhibit 2)
4. During her [REDACTED], 2019 SNAP interview, the Defendant disclosed her employment at [REDACTED] and receipt of child support. (Exhibit 3)
5. On [REDACTED] 2019, the Department granted the Defendant SNAP benefits for her household effective [REDACTED] 2019 and issued a *Notice of Action* to the Defendant. (Exhibit 4)
6. The Department's [REDACTED], 2019 *Notice of Action* informed the Defendant that 1) she must notify the Department's Benefit Center when her total monthly gross income exceeded \$1,784.00; and 2) she must report changes to the Department by the 10th day of the month following the month of change. (Exhibit 4)
7. From [REDACTED] 2019 through [REDACTED], 2020, the Department issued the Defendant's household SNAP benefits. (Department Representative Testimony) (Exhibit 11)
8. In [REDACTED] 2019, the gross income of the Defendant's household equaled \$2,487.85. [\$2,487.85 (wages) plus \$0.00 (child support)] (Exhibits 7 and 9)
9. In [REDACTED] 2019, the gross income of the Defendant's household equaled \$2,766.37. [\$2,424.37 (wages) plus \$342.00 (child support)] (Exhibits 7 and 9)
10. The Defendant did not report to the Department by [REDACTED] 2019 that her household's gross monthly income had exceeded \$1,784.00 in [REDACTED] 2019. (Department Representative Testimony)
11. In [REDACTED] 2019, the gross income of the Defendant's household equaled \$2,963.47. [\$2,507.47 (wages) plus \$456.00 (child support)] (Exhibits 7 and 9)

12. In [REDACTED] 2019, the gross income of the Defendant's household equaled \$3,079.77. [\$2,509.77 (wages) plus \$570.00 (child support)] (Exhibits 7 and 9)
13. On [REDACTED] 2019, the Defendant erroneously reported to the Department by means of an electronic *Periodic Report Form* that her monthly gross wages had not changed by more than \$100.00 per month and remained at \$1,685.87 per month; she had underreported her gross wages by almost \$1,000.00 (Exhibit 5)
14. On the [REDACTED], 2019 *Periodic Report Form*, the Defendant reported that her child support had changed to around \$456.00 to \$490.20 per month. (Exhibit 5)
15. In [REDACTED] 2019, the gross income of the Defendant's household equaled \$4,274.83. [\$3,818.83 (wages) plus \$456.00 (child support)] (Exhibits 7 and 9)
16. In [REDACTED] 2019, the gross income of the Defendant's household equaled \$2,956.96. [\$2,506.96 (wages) plus \$570.00 (child support)] (Exhibits 7 and 9)
17. In [REDACTED] 2019, the gross income of the Defendant's household equaled \$2,819.76. [\$2,363.76 (wages) plus \$456.00 (child support)] (Exhibits 7 and 9)
18. In [REDACTED] 2019, the gross income of the Defendant's household equaled \$2,930.52. [\$2,474.52 (wages) plus \$456.00 (child support)] (Exhibits 7 and 9)
19. In [REDACTED] 2019, the gross income of the Defendant's household equaled \$2,722.75. [\$2,380.75 (wages) plus \$342.00 (child support)] (Exhibits 7 and 9)
20. In [REDACTED] 2020, the gross income of the Defendant's household equaled \$4,035.29. [\$3,579.29 (wages) plus \$456.00 (child support)] (Exhibits 7 and 9)
21. In [REDACTED] 2020, the gross income of the Defendant's household equaled \$2,873.65. [\$2,417.65 (wages) plus \$456.00 (child support)] (Exhibits 7 and 9)
22. The Department is not seeking recovery of SNAP benefits issued to the Defendant's household for the service months of [REDACTED] 2019, [REDACTED] 2019, and [REDACTED] 2019. (Department Representative Testimony)
23. The Department seeks recovery of SNAP benefits issued to the Defendant for the service months of [REDACTED] 2019 through [REDACTED] 2020. (Exhibit 13)
24. The Department has not previously sanctioned the Defendant for an intentional Program violation of the SNAP. (Department Representative Testimony) (Exhibit 15)
25. 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...."

On [REDACTED] 2021, the Defendant received notification in writing of OLCRAH's scheduling of an administrative disqualification hearing. 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 a SNAP administrative disqualification hearing.

2. "*Definition of income.* Household income shall mean all income from whatever source excluding only items specified in paragraph (c) of this section. (1) Earned income shall include: (i) All wages and salaries of an employee." 7 C.F.R. § 273.9 (b)(1)(i).

"Unearned income shall include, but not be limited to: ... (iii) Support or alimony payments made directly to the household from nonhousehold members." 7 C.F.R. § 273.9 (b)(2)(iii).

The Defendant's monthly gross wages are counted, earned income.

The child support received by the Defendant is counted, unearned income.

3. "Households that do not contain an elderly or disabled member shall meet both the net income eligibility standards and the gross income eligibility standards for the SNAP...." 7 C.F.R. § 273.9 (a).

As a condition of SNAP eligibility, the Defendant's household was required to meet both the gross and net income eligibility standards of the SNAP, as the household contained no elderly or disabled members.

4. Title 7, Section 273.9 (a)(1)(i) of the Code of Federal Regulations provides that the gross 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 [REDACTED] Federal Poverty Standards are published in the Federal Register at 83 FR 2642, pp. 2642-2644, published [REDACTED]/2018. Effective [REDACTED] 2018, 130% of the Federal poverty level for a household of two equaled \$1,784.00. *Field Operations Communication*, [REDACTED] 2018.

The [REDACTED] Federal Poverty Standards are published in the Federal Register at 84 FR 1167, pp. 1167-1168, published [REDACTED]/2019. Effective [REDACTED] 2019, 130% of the Federal poverty level for a household of two equaled \$1,832.00. *Field Operations Communication*, [REDACTED] 2019.

5. Title 7, Code of Federal Regulations § 273.12 (a) (5) (v) provides:

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 C.F.R. § 273.12 (a)(5)(v).

“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....” 7 C.F.R. § 273.12 (a) (2).

The Department correctly notified the Defendant at the time of her SNAP grant on [REDACTED], 2019 that the Defendant was required to report to the Department when her monthly gross income from all sources exceeded \$1,784.00, or 130% of the Federal poverty level for a household of two.

By [REDACTED] 2019, the Defendant was obligated to report to the Department that her household’s monthly gross income from all sources in [REDACTED] 2019 exceeded \$1,784.00, or 130% of the Federal poverty level for a household of two.

The Defendant committed a Program error by failing to report to the Department that her household’s monthly gross income in [REDACTED] 2019 had exceeded \$1,784.00, or 130% of the Federal poverty level for a household of two.

6. “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.

7. “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 the correct amount of wages she grossed from her employment on her [REDACTED] 2019 Periodic Report Form.

9. “*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 facts when she underreported her monthly gross wages to the Department on her [REDACTED] 2019 Periodic Report Form.

The Defendant committed an intentional Program violation of the SNAP by misrepresenting facts as to her earned income to the Department.

10. 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 her first intentional Program violation.

11. Title 7, Code of Federal Regulations (“C.F.R.”) Section 273.2 (j)(2)(ii)(A) provides:

The State agency, at its option, may extend categorical eligibility to the following households only if doing so will further the purposes of the Food and Nutrition Act of 2008: (A) Any household (except those listed in paragraph (j)(2)(vii) of this section) in which all members receive or are authorized to receive non-cash or in-kind services from a program that is less than 50 percent funded with State money counted for MOE [maintenance of effort] purposes under Title IV-A or Federal money under Title IV-A and that is designed to further purposes one and two of the TANF [Temporary Assistance to Families in Need] block grant, as set forth in Section 401 of P.L. 104-193. States must inform FNS of the TANF services under this paragraph that they are determining to confer categorical eligibility.

7 C.F.R. § 273.2 (j)(2)(ii)(A).

Households in the State of Connecticut with gross incomes below 185% of the Federal poverty level qualify for the State's "Help for People in Need" program, a program funded with money counted for TANF MOE purposes.

Effective [REDACTED] 2018, the monthly gross income limit of the SNAP for a household of two in Connecticut equaled \$2,538.00, i.e. 185% of the Federal poverty level for a household of two. *Field Operations Communication*, [REDACTED] 2018.

Effective [REDACTED] 2019, the monthly gross income limit of the SNAP for a household of two in Connecticut equaled \$2,607.00, i.e. 185% of the Federal poverty level for a household of two. *Field Operations Communication*, [REDACTED] 2019.

As one of the conditions of SNAP eligibility, the monthly gross income of the Defendant's household had to be less than or equal to 185% of the Federal poverty level for a household of two in the relevant period.

From [REDACTED] 2019 through [REDACTED] 2019, the Defendant's household was ineligible to receive SNAP benefits, as the household's income from all sources exceeded \$2,538.00 (185% of the Federal Poverty Level for two, effective [REDACTED] 2018).

From [REDACTED] 2019 through [REDACTED] 2020, the Defendant's household was ineligible to receive SNAP benefits, as the household's income from all sources exceeded \$2,607.00 (185% of the Federal Poverty Level for two, effective [REDACTED]/2019).

12. "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 (b) of the Code of Federal Regulations breaks down the types of claims as follows: (1) Intention Program violation (IPV) claim as "any claim for an overpayment or trafficking resulting from an individual committing an IPV. An IPV is defined in § 273.16;" (2) Inadvertent household error (IHE) claim as "any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the

household;" and (3) Agency error (AE) claim as "any claim for an overpayment caused by an action or failure to take action by the State agency.

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] 2020, the Defendant received SNAP benefits for which her household was not entitled.

The Department may recover from the Defendant the SNAP benefits issued to her household for the service months of [REDACTED] 2019 through [REDACTED] 2020.

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 the SNAP benefits issued to her household for the service months of [REDACTED] 2019 through [REDACTED] 2020 is affirmed.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

Cc: George Jones, DSS-Hartford
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.