

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 #176442

Client ID # ██████████

Case ID # ██████████

ADMINISTRATIVE DISQUALIFICATION HEARING
NOTICE OF DECISION

PARTY

██████████
██████████
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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 failing to report income she was required to report under SNAP rules. The Department proposes to disqualify the Defendant from SNAP participation for a period of one year. The Department also proposes that it has a claim to recover \$389.00 in SNAP benefits it asserts resulted from the Defendant’s 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. On ██████████ 2021, notice was sent to the Defendant via certified mail of the initiation of the ADH process. The mailing contained Information outlining a defendant’s rights in these proceedings and included the publication, *List of Legal Services in Connecticut*. On ██████████ 2021, the U.S. Postal Service reported that the certified mail to the

Defendant was undeliverable/unclaimed. On [REDACTED] [REDACTED] 2021, OLCRAH sent duplicate copies of the notice and information to the Defendant via 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:

Karen Agosto, Client Fraud Investigator for the Department
James Hinckley, Hearing Officer

STATEMENT OF THE ISSUES

1. The first issue is whether the Defendant is subject to a disqualification penalty, in accordance with SNAP rules, for the offence of committing an IPV in the SNAP program.
2. The second issue is whether the Department has a claim to recover \$389.00 in SNAP benefits overpaid to the Defendant as a result of her commission of an IPV.

FINDINGS OF FACT

1. On [REDACTED] 2019, the Defendant completed a SNAP renewal in-office. As of the date of the renewal, the Appellant's household's only income was from the Appellant's employment at [REDACTED]. (Ex. 14: Case Notes)
2. The Defendant's job at [REDACTED] ended on [REDACTED] 2019. (Ex. 14)
3. The Defendant did not report her loss of employment to the Department when it occurred, nor was she required to. (Hearing Record)
4. The Department acts on reported changes, whether or not the change is required to be reported. (Hearing Record)
5. On [REDACTED] 2019, the Defendant's adult son, who was a member of her SNAP household, started a new job at [REDACTED] dba [REDACTED]. He received his first pay from the new job on [REDACTED] 2019. (Ex. 2: CC Verify wage report)
6. The Defendant was not required to immediately report when her son started a new job because the wages did not cause the Appellant's household's total gross income to exceed 130% of the federal poverty level. (Investigator's testimony)

7. On [REDACTED] 2019, the Appellant completed a periodic review form ("PRF"). The Appellant was required to report all of her household's information on the PRF, and attest with her signature that the information was accurately reported. (Hearing Record)
8. The Defendant reported on her PRF, in the section for "earned income", that she no longer received \$1,186.51 per month from her job at [REDACTED] and reported that the job ended on [REDACTED] 2019. (Ex. 5: PRF)
9. The Defendant did not report on her PRF, in the section for "earned income", that her son was still working at [REDACTED] since [REDACTED] 2019. (Ex. 5)
10. On [REDACTED] 2019, the eligibility worker that processed the PRF verified through an employment verification service that the Defendant received her last pay from [REDACTED] on [REDACTED] 2019. (Ex. 14)
11. In [REDACTED] 2019 the Defendant's son's job at [REDACTED] ended, and he received his last pay on [REDACTED] 2019. (Ex.2)
12. On [REDACTED] 2020, the Defendant completed another SNAP renewal. She reported at the time that her adult son was employed at [REDACTED] (Ex. 14: PRF)
13. On [REDACTED] 2020, the eligibility worker that processed the renewal verified the Defendant's son's employment at [REDACTED] but also discovered through the employment verification service that her son "was working at [REDACTED] at the time PRF was completed and job was not reported." (Ex. 14)
14. On [REDACTED] 2020, the eligibility worker made a fraud referral to the Department's client fraud investigation Unit ("CFIU") due to the Defendant's son's unreported income at [REDACTED]. (Hearing Record)
15. The Department determined that the Defendant was not required to report her son's [REDACTED] income until her [REDACTED] 2019 PRF, and that a SNAP overpayment existed for [REDACTED] 2019 only, because [REDACTED] 2019 was the first month the Department would have reflected the change had the information been correctly reported on the PRF, and because after [REDACTED] 2019 the Defendant's son no longer had income from the job. (Hearing Record)
16. The Defendant's son had \$901.38 in gross earnings from [REDACTED] in [REDACTED] 2019. (Ex. 2):
17. The Department calculated that the Defendant had a \$389.00 fraud overpayment for the month of [REDACTED] 2019. (Ex. 8: SNAP Computation Sheet)

18. On [REDACTED] 2021, the Department mailed a Notice of PreHearing Interview, a Waiver of Disqualification Hearing form, and other information about the ADH to the Defendant. (Hearing Record)
19. On [REDACTED] 2021, the Department's Investigator conducted a Pre-Hearing interview with the Defendant by telephone. (Ex. 6: W-1ER Renewal of Eligibility form)
20. On [REDACTED] 2021, the Defendant left a voicemail message for the Investigator that she intended to return the signed waiver form. (Hearing Record)
21. On [REDACTED] 2021, The Investigator called the Defendant and enquired about the status of the waiver form and was told it was already mailed in. The investigator explained that the signed waiver was not received by the Department and, on [REDACTED] 2021, sent new copies of the waiver and the other ADH information to the Defendant. (Hearing Record)
22. The Department never received a signed waiver form from the Defendant and, on [REDACTED] 2021, requested that an ADH be scheduled. (Hearing Record)
23. The Defendant has not committed any prior IPV's in the SNAP program. (Ex. 12: 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 her 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 was not required to report her son’s job at [REDACTED] when it began in [REDACTED] 2019 because it did not cause the household’s total monthly gross income to exceed 130 percent of the federal poverty level.

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. **The Defendant failed to comply with SNAP reporting requirements when she failed to report her son's employment at [REDACTED] on her [REDACTED] 2019 PRF.**
20. **The Defendant's failure to report her son's income on her [REDACTED] 2019 PRF caused a SNAP overpayment for [REDACTED] 2019.**
21. **There is not clear and convincing proof that the Defendant's failure was an intentional misrepresentation or concealment of facts for the purpose of fraudulently receiving SNAP benefits.**
22. **The Defendant did not commit, or intend to commit, an IPV in the SNAP program.**
23. 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...
24. **The Defendant is not guilty of committing a first IPV in the SNAP program. The Defendant is not subject to a disqualification penalty.**
25. "A recipient claim is an amount owed because of benefits that are overpaid..." 7 C.F.R. §273.18(a)(1)
26. "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)

27. "An Inadvertent Household Error (IHE) claim is any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the household. 7 C.F.R. §273.18(b)(2)

28. The Department may pursue a claim for a \$389.00 SNAP overpayment in [REDACTED] 2019. The claim is an Inadvertent Household Error claim, not an IPV claim. Pursuant to 7 CFR § 273.18(c)(1)(ii)(B), when a claim is caused by unreported income the earned income deduction is not allowed except when it is an Agency Error claim. The amount of the overpayment calculated by the Department, which disallowed the earned income deduction, is correct.

DISCUSSION

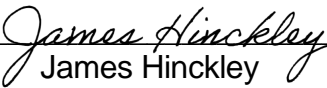
The standard that must be met for a finding of guilt in an administration disqualification hearing is clear and convincing proof that the Defendant intended to commit fraud in the Program. The evidence did not meet that standard. The Defendant's failure consisted of a single instance of not listing her son's income on a PRF. Had the Defendant misreported her son's income on multiple occasions, or had she made a direct statement to the Department denying that her son was working, it would have suggested an intent to defraud.

The Defendant's job ended on [REDACTED] 2019, but she did not report the loss of income until she submitted her PRF on [REDACTED] 2019. The Defendant was not required to report the change any sooner than she did, but had she reported the change when it occurred, she would have qualified for an increased SNAP benefit beginning [REDACTED] 2019. Instead, she did not realize an increased benefit until [REDACTED] 2019 after her PRF was processed.

The Defendant displayed either laxity or a poor understanding of the reporting requirements, but not an intent to commit fraud. She could have substantially increased her benefit for several months without resorting to fraud had she timely reported the loss of her own job but did not do so for one of the above reasons. Her failure to report her son's income was likely for similar reason.

DECISION

1. The Defendant is **NOT GUILTY** of committing a first IPV in the SNAP program.
2. The Department does not have an IPV claim of \$389.00 for [REDACTED] 2019 against the Defendant.
3. The Department has an IHE claim of \$389.00 for [REDACTED] 2019 against the Defendant.


James Hinckley
Hearing Officer

cc: 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. 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.