

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: 177909

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 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 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:

Ryan Barganier, 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 \$1,540.00 in SNAP benefits issued to him for the service months of [REDACTED] 2019 through [REDACTED] 2020.

FINDINGS OF FACT

1. The Defendant is [REDACTED] years old and is not disabled. (Exhibit 3)
2. From [REDACTED] 2019 through [REDACTED] 2019, the Department issued the Defendant \$1,540.00 in SNAP benefits as an individual. (Exhibit 6) (Department Representative Testimony)
3. From [REDACTED] 2019 through [REDACTED] 2019, the Defendant worked for [REDACTED] (the "first employer"). (Exhibit 2)
4. From [REDACTED] 2019 through [REDACTED] 2020, the Defendant worked for [REDACTED] (the "second employer"). (Exhibit 2)
5. On [REDACTED], 2019, the Department issued the Defendant a *Periodic Report Form* to update with any changes, to sign, and to return as a condition of continuing to receive SNAP benefits during the remainder of the Defendant's certification period. (Exhibit 3)
6. The *Periodic Report Form* had the pre-printed statement of "There is no income for this case" under the category of "Income Type" and requested that the Defendant update that information on the form if there was a change of more than \$100.00 and to provide copies of his paystubs for his last four weeks of work, or an IRS form with all schedules. (Exhibit 3)
7. On [REDACTED] 2019, the Defendant erroneously reported on the *Periodic Report Form* that he had no income. (Exhibit 3)
8. On the [REDACTED] 2019 *Periodic Report Form*, the Defendant attested that the information he gave on the form was "true and complete to the best of [his] knowledge" and recognized that he could go to prison or be required to pay fines for knowingly giving wrong or incomplete information. (Exhibit 3)
9. In [REDACTED] 2019, the Defendant's gross wages equaled \$1,756.50 from the first employer. (Exhibit 2)
10. In [REDACTED] 2019, the Defendant's gross wages equaled \$3,152.85 from his two employers. [\$1,071.00 (first employer) plus \$2,081.85 (second employer)] (Exhibit 2)
11. In [REDACTED] 2019, the Defendant's gross wages equaled \$2,812.53 from the second employer. (Exhibit 2)

12. In [REDACTED] 2019, the Defendant's gross wages equaled \$3,225.21 from the second employer. (Exhibit 2)
13. In [REDACTED] 2019, the Defendant's gross wages equaled \$4,426.65 from the second employer. (Exhibit 2)
14. In [REDACTED] 2019, the Defendant's gross wages equaled \$3,917.25 from the second employer. (Exhibit 2)
15. In [REDACTED] 2019, the Defendant's gross wages equaled \$4,548.37 from the second employer. (Exhibit 2)
16. In [REDACTED] 2019, the Defendant's gross wages equaled \$3,177.33 from the second employer. (Exhibit 2)
17. In [REDACTED] 2019, the Department discovered that the Defendant had unreported wages. (Department Representative Testimony)
18. The Defendant's income after adjustments for allowable disregards and expenses, as permitted by the SNAP, exceeded the SNAP's net income requirements for the service months of [REDACTED] 2019 through [REDACTED] 2019. (Exhibit 5)
19. The Department seeks recovery of SNAP benefits issued to the Defendant for the service months of [REDACTED] 2019 through [REDACTED] 2019. (Department Representative Testimony) (Exhibit 4)
20. The Department has not previously sanctioned the Defendant for an intentional Program violation of the SNAP. (Department Representative Testimony) (Exhibit 7)
21. 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).

For the purposes of the SNAP, the Defendant’s wages were counted, earned 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 an individual who was not elderly and not disabled, the Defendant’s income had to fall within the gross and net income eligibility standards of the SNAP as a condition of SNAP participation.

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.”

Title 7, Section 273.9 (a)(2) of the Code of Federal Regulations provides the net income eligibility standards for the SNAP. Subsection (a)(3)(i) provides that the income eligibility limits are revised each October 1 to reflect the annual adjustment to the Federal income poverty guidelines for the 48 States and the District of Columbia, for Alaska, and for Hawaii, and notes that “130 percent of the annual income poverty guidelines shall be divided by 12 to determine the monthly gross income standards, rounding the results upwards as necessary. For households greater than eight persons, the increment in the Federal income poverty guidelines is multiplied by 130 percent, divided by 12, and the results rounded upward if necessary.”

The monthly gross and net income eligibility standards for all areas are prescribed in tables posted on the Food and Nutrition Service website, at www.fns.usda.gov/snap. 7 C.F.R. § 273.9 (a)(4).

The 2018 Federal Poverty Standards are published in the Federal Register at 83 FR 2642, pp. 2642-2644, published 1/18/2018. Effective October 1, 2018, 130% of the Federal poverty level for a household of one equaled \$1,316.00.

The 2019 Federal Poverty Standards are published in the Federal Register at 84 FR 1167, pp. 1167-1168, published 2/1/2019. Effective October 1, 2019, 130% of the Federal poverty level for a household of one equaled \$1,354.00.

From [REDACTED] 2019 through [REDACTED] 2019, the Defendant was ineligible to receive SNAP benefits, as his income exceeded the net income eligibility standards of the SNAP.

5. "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 by filing a *Periodic Report Form*.

6. 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).

The Defendant was obligated to report to the Department that his monthly gross income exceeded \$1,316.00, or 130% of the Federal poverty level for a household of one.

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 accurately disclose his employment and wages on his [REDACTED] 2019 *Periodic Report Form*.

As a condition of SNAP eligibility, the Defendant was obligated to report to the Department on his [REDACTED] 2019 Periodic Report Form that he had started new employment and had a change in income exceeding \$100.00.

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 he indicated to the Department on his [REDACTED] 2019 Periodic Report Form that he was without income, at which time he was receiving significant wages.

The Defendant committed an intentional Program violation of the SNAP by misrepresenting facts as to his 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 this first intentional Program violation.

11. “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] 2019, the Defendant received \$1,540.00 in SNAP benefits for which he was not eligible.

The Department may recover from the Defendant the SNAP benefits issued to his household for the service 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 the \$1,540.00 in SNAP benefits issued for the service months of [REDACTED] 2019 through [REDACTED] 2019 is affirmed.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

Cc: Ryan Barganier, DSS-New Britain
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.