

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 #181059

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 misreporting his household composition in order to qualify for benefits to which he was not entitled. The Department proposed to disqualify the Defendant from SNAP participation for a period of one year. The Department also asserted a claim to recover \$966.00 in SNAP benefits alleged to have been 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 Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) scheduled the ADH for ██████████ 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*. U.S. Postal Service tracking identified the certified mail as unclaimed by the Defendant. On ██████████ 2021, the same information was remailed 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:

Shannon Hales-Eaton, Department Investigator, Fraud Division
 George Jones, Department Lead Investigator, Hartford regional office
 James Hinckley, Hearing Officer

The Defendant did not attend the hearing.

STATEMENT OF THE ISSUES

1. The first issue is whether the Defendant is subject to a SNAP disqualification penalty for committing an IPV in the SNAP program.
2. The second issue is whether the Department has a claim to recover \$966.00 in SNAP benefits overpaid to the Defendant as a result of his commission of an IPV.

FINDINGS OF FACT

1. In 2018, the Defendant was certified by the Department to receive SNAP for a household of two persons. The household included the Defendant and his minor child (his "Son"). (Hearing Record)
2. The Defendant's case was certified with no income reflected, and the Department determined the Defendant to be eligible for the maximum SNAP benefit for his household size. (Hearing Record)
3. On [REDACTED] 2018, the [REDACTED] Probate Court appointed [REDACTED] as co-guardians of person of the Defendant's Son. (Ex. 6: Court of Probate Fiduciary's Probate Certificate)
4. The Defendant was required to complete a periodic review form ("PRF") at the mid-point of his SNAP certification period so that the Department could review his household's continued eligibility for benefits. The completed form was due by [REDACTED] 2018. If the completed form was not submitted timely to the Department, the Defendant's SNAP benefits would end on [REDACTED] 2018. (Ex. 4: Case Notes)
5. On [REDACTED] 2018 the Defendant saw a Department worker at an outpost location regarding his SNAP. Because the Defendant did not bring his PRF, and because the outposted worker did not have access to a printer to reprint

the PRF, the Defendant was given an eligibility renewal document to complete in lieu of the PRF. (Ex. 4)

6. On [REDACTED] 2018, the Defendant completed the renewal form. The handwritten responses to the questions on the form reported that the Defendant lived at [REDACTED] with his Son. The Defendant signed the form certifying under penalty of perjury that all of the information given on the form was true and complete to the best of his knowledge and certifying that he had specific knowledge of the identity of all children for whom he was asking for help on the form and that the information he gave about those children was accurate to the best of his knowledge. (Ex. 3: W-1ER *Renewal of Eligibility* form)
7. The eligibility document completed by the Defendant on [REDACTED] 2018 contained misstatements. The Defendant's Son was not living with him at the time as he stated on the form; the child was living at a different address with the two individuals appointed as his co-guardians by the probate court in [REDACTED] 2018. (Hearing Record)
8. Had the Defendant accurately reported the change in his household size on his [REDACTED] 2018 form, his SNAP benefits would have been adjusted beginning [REDACTED] 2019 to reflect that his household contained one person. (Hearing Record)
9. As a result of the misstatements, the Defendant received incorrect SNAP benefit amounts beginning [REDACTED] 2019. (Hearing Record)
10. On [REDACTED] 2019, a Department worker made a referral to the Department's Fraud Investigation Unit to investigate a possible IPV committed by the Defendant. (Ex. 2: ImpaCT Update Referral)
11. The Department issued SNAP allotments to the Defendant in the following amounts for the listed months:

[REDACTED] 2019	[REDACTED] 2019	[REDACTED] 2019	[REDACTED] 2019	[REDACTED] 2019	[REDACTED] 2019
\$353.00	\$353.00	\$353.00	\$353.00	\$353.00	\$353.00

(Ex. 5: Benefit Issuance Search results)

12. Effective [REDACTED] 2019, the Defendant's SNAP was corrected to reflect a household of one person, and his benefits were adjusted from \$353.00 per month to \$192.00 per month. (Ex. 5)
13. During the period from [REDACTED] 2019 to [REDACTED] 2019, the maximum SNAP benefit for a household of two persons with no income was \$353.00 per month. (Ex. 8: SNAP computation sheets)

14. During the period from [REDACTED] 2019 to [REDACTED] 2019, the maximum SNAP benefit for a household of one person with no income was \$192.00 per month. (Ex. 8)
15. During the period from [REDACTED] 2019 to [REDACTED] 2019 the Defendant was overpaid by \$161.00 in each month. He received \$353.00 in each month but was actually eligible for \$192.00 in each month. The total overpayment for the period was \$161.00, multiplied by six months, equals \$966.00. (Hearing Record)
16. On [REDACTED] 2021, the Department notified the Defendant that it believed he broke SNAP rules intentionally and was overpaid \$966.00 in benefits for the period from [REDACTED] 2019 to [REDACTED] 2019. The mailing scheduled a pre-hearing interview for [REDACTED] 2021 and included a Waiver of Disqualification Hearing form. (Ex. 9: Notice of Pre-Hearing Interview, Ex. 10: Waiver of Disqualification Hearing)
17. The Defendant did not appear for the scheduled Pre-Hearing interview or sign and return the waiver form. (Hearing Record)
18. The Defendant has not committed any prior IPVs 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. **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.**

7. “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)

8. 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.

9. “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)

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

11. "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)
- 12. The Defendant was required to file a PRF between 4 and 6 months into his certification period.**
13. "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)
14. 7 C.F.R. § 273.12(a)(1)(ii) requires the reporting of "All changes in household composition, such as the addition or loss of a household member."
- 15. The Defendant did not report on the form used in lieu of the PRF that his household no longer included his Son, who was at the time living with co-guardians appointed by the probate court.**
- 16. The Defendant's misstatements on the form were clearly intentional. The Appellant's son's name was hand-written on the form where it asked for household members to be listed, and the Defendant signed the form attesting that his statements were "true and complete to the best of [his] knowledge."**
- 17. It is established by clear and convincing evidence that the Defendant made a false or misleading statement, or misrepresented, concealed or withheld facts in violation of SNAP regulations for the purpose of receiving SNAP benefits.**
- 18. The Defendant committed, and intended to commit, an IPV in the SNAP program.**
19. 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...

20. **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**
21. **The Defendant's SNAP eligibility was determined incorrectly for the months from [REDACTED] 2019 to [REDACTED] 2019, because the Department issued SNAP allotments to the Defendant during that period based on the wrong household size.**
22. "A recipient claim is an amount owed because of benefits that are overpaid..." 7 C.F.R. §273.18(a)(1)
23. "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)
24. "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)
25. "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)
26. **The month the IPV first occurred was [REDACTED] 2019. This was the first month that SNAP reporting rules required the Defendant's change in household size to be reflected, because it was the first month following the month he was required to file a PRF reporting the change.**
27. **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 [REDACTED] 2019 to [REDACTED] 2019.**
28. **The Defendant was overpaid \$966.00 in SNAP benefits during the period from [REDACTED] 2019 to [REDACTED] 2019, as established in the Findings of Fact, above.**
29. **All \$966.00 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 pursuant to 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 \$966.00 in SNAP benefits overpaid to the Defendant as a result of his commission of an IPV.

James Hinckley

James Hinckley
Hearing Officer

cc: OLCRAH.QA.DSS@ct.gov
Shannon Hales-Eaton
George Jones

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.