

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-9902

██████████ 2021
Signature Confirmation

Case # ██████████
CFIU # ██████████
Client ID # ██████████
Request # 184072

ADMINISTRATIVE DISQUALIFICATION HEARING
NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

The Department of Social Services (the “Department”) requested an Administrative Disqualification Hearing (ADH”) to seek the disqualification of ██████████ (the “Defendant”) from participating in the Supplemental Nutritional Assistance Program (“SNAP”) for a period of one (1) year. The Department alleged that the Defendant committed an Intentional Program Violation (“IPV”) in the SNAP program for misrepresenting his income. The Department seeks to recover the overpaid SNAP benefits totaling \$1971.00. This the Defendant’s first IPV offense in the SNAP program.

On ██████████ 2021, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) notified the Defendant of the initiation of the ADH process via certified mail and that the ADH was scheduled for ██████████ 2021 at 11:00 am. The notifications outlined a Defendant’s rights in these proceedings.

On ██████████ 2021, the certified mail was received and signed by the defendant.

On ██████████ 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 hearing.

The Defendant was not present at the hearing. The Defendant did not show good cause for failing to appear.

The following individuals were present at the hearing:

Ryan Barganier, Social Services Investigator, Department's Representative
Shawn Hardy, Hearing Officer trainee, observer
Almelinda McLeod, Hearing Officer

On [REDACTED] 2021, the hearing record was closed.

STATEMENT OF THE ISSUE

The first issue to be decided is whether the Defendant committed an IPV of the SNAP program and thus subject to a 1-year (12 months) disqualification.

The second issue to be decided is whether the Department's proposal to recoup \$1971.00 in SNAP overpayment is correct.

FINDINGS OF FACT

1. The Defendant is a recipient of SNAP benefits and currently receiving \$234.00 in SNAP benefits as a household of one. (Hearing record)
2. The Defendant resides at [REDACTED]. (Hearing record)
3. The Defendant was certified for SNAP benefits between [REDACTED] 2017 to [REDACTED] 2018. (Exhibit 1, NOA)
4. On [REDACTED] 2017, the Department issued a Notice of Action ("NOA") to the Defendant notifying him that he was found eligible for SNAP benefits of \$156 on [REDACTED] 2017 and \$164.00 effective [REDACTED] 2017 SNAP benefits going forward. (Exhibit 1, NOA)
5. The NOA explained the SNAP rules regarding reporting requirements specifically a change to his gross monthly income exceeding \$1287.00 per month (130% of the Federal Poverty Limit ("FPL")) must be reported by the 10th day of the month following the month of the change. (Exhibit 1)
6. On [REDACTED] 2017, the Department received the Defendant's Periodic Review ("PRF") form. The Defendant's monthly SSI and SSDI income were reported as \$11.00 and \$747.00, respectively. The Defendant did not report any changes to his income of \$100 or more nor any new employment as instructed. The Defendant signed the document attesting to the correctness and completeness of his statements under penalty of perjury. (Exhibit 4, Misstatements- PRF)

7. On [REDACTED] 2018, the Department received the Defendant's W-1ER Renewal of Eligibility. The Defendant did not report any earned income. The Defendant signed the document attesting to the correctness and completeness of his statements under penalty of perjury. (Exhibit 4, Misstatements- W-1ER)
8. The Department's Investigations and Recoveries Division received a w-272 referral from the Department citing that the Defendant misrepresented his income. (Hearing record)
9. On [REDACTED] 2021 the Department conducted an investigation and found the Defendant was employed with [REDACTED] from [REDACTED] 2017 where he received his first paycheck on [REDACTED], 2017 and stopped employment on [REDACTED] 2019. (Exhibit 3, Work Number verifier and Exhibit 10, Dept of Labor ("DOL") wage details)
10. The Department determined the Defendant's wages with [REDACTED] exceeded \$1287.00 130% FPL in the month of [REDACTED] 2017.

Paydate	Gross earnings
[REDACTED]/17	\$431.09
[REDACTED]/17	\$366.30
[REDACTED]/17	\$416.90
[REDACTED] 17	\$327.60
Total:	\$1541.89

(Exhibit 3, Work # Verifier)

11. The Department determined the Defendant's wages with [REDACTED] consistently exceeded \$1287.00 130% FPL from [REDACTED] 2017 to [REDACTED] 2018. See chart below:

[REDACTED] 2017	\$1672.88
[REDACTED] 2018	\$4264.40
[REDACTED] 2018	\$4026.24
[REDACTED] 2018	\$3939.43
[REDACTED] 2018	\$2066.58
[REDACTED] 2018	\$5020.44
[REDACTED] 2018	\$3989.86
[REDACTED] 2018	\$3562.36
[REDACTED] 2018	\$4728.99
[REDACTED] 2018	\$2210.51
[REDACTED] 2018	\$4731.26
[REDACTED] 2018	\$4631.93
[REDACTED] 2018	\$5821.32

(Exhibit 3, Wage verifier and Exhibit 6, w-1216 manual computation of SNAP)

12. The Department determined the Defendant did not report this change by [REDACTED] 2017 as was required under the reporting requirements. (Hearing record)
13. The Department manually calculated SNAP eligibility from [REDACTED] 2018 to [REDACTED] 2018 and determined the Defendant had been overpaid effective [REDACTED] 2018 to [REDACTED] 2018. (Exhibit 6, W-1216 Manual computation of SNAP)
14. The Department determined the Defendant received the following SNAP benefits from [REDACTED] 2018 to [REDACTED] 2018. See chart below:

[REDACTED] 2018	\$164.00
[REDACTED] 2018	\$157.00
[REDACTED] 2018	\$157.00
[REDACTED] 2018	\$157.00
[REDACTED] 2018	\$157.00
[REDACTED] 2018	\$157.00
[REDACTED] 2018	\$157.00
[REDACTED] 2018	\$157.00
[REDACTED] 2018	\$157.00
[REDACTED] 2018	\$157.00
[REDACTED] 2018	\$162.00
[REDACTED] 2018	\$156.00
[REDACTED] 2018	\$233.00
Total	\$1971.00

(Exhibit 7, SNAP Benefit History)

15. On [REDACTED] 2021, the Department through the Electronic Disqualification Recipient System ("E-DRS") determined that the Defendant had no prior IPV's or disqualifications in the SNAP program and determined that the Defendant had incurred his first violation. (Exhibit 8, E-DRS Inquiry)
16. On [REDACTED] 2021, the Department issued a W-1448 Notice of Prehearing Interview SNAP Program advising the Defendant broke the rules of the SNAP program and that an overpayment of \$1971.00 resulted from the misrepresentation of his income with [REDACTED]. The Defendant was scheduled to attend an appointment for [REDACTED] 2021 to discuss the charges and the overpayment. (Exhibit 2, W-1448)
17. On [REDACTED], 2021, the Department issued a W-1449 Waiver of Disqualification hearing SNAP program advising the Defendant that when someone breaks the rules of a program on purpose; the Department calls it an IPV. The Department disqualifies this person from the SNAP program for one year for a first violation. The disqualified person can not obtain SNAP benefits until the disqualification is over. The SNAP overpayment of \$1971.00 was for the period from [REDACTED] 2018 to [REDACTED] 2018 and the Defendant

can either pay in full, \$25.00 beginning [REDACTED], 2021 until the entire amount is paid or 20% or \$10; whichever is more. (Exhibit 2, W-1449)

18. The Defendant did not attend the Prehearing interview nor contacted the Department in response to the proposed disqualification letters w-1448 or W-1449. (Hearing record)
19. There were no mitigating circumstances to substantiate that the Defendants program violation was unintentional. (Hearing record)
20. On [REDACTED] 2021, OLCRAH sent the Administrative Disqualification Hearing (“ADH”) and summary packet scheduled for [REDACTED] 2021 to the Defendant address listed as [REDACTED] via certified mail. (Hearing Officer’s Exhibit A: Certified Mail packet receipt)
21. On [REDACTED] 2021, the Defendant received and signed for the ADH and summary packet. (Hearing Officer Exhibit B, signed certified mail receipt)
22. The Defendant did not appear for the ADH and did not show good cause for failing to appear. (Hearing record)

CONCLUSIONS OF LAW

1. Section 17b-2 (7) of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the SNAP program.
2. Section 17b-88 of the Connecticut General Statutes 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 for cases involving alleged fraud in the Supplemental Nutrition Assistance Program, SNAP.
3. Title 7 of the Code of Federal Regulations (“CFR”) §273.16 (e) provides that the State agency shall conduct administrative disqualification hearings for individuals accused of Intentional Program Violation.
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, 175 (1994) (citing Conn. Gen. Stat. § 17b-10; Richard v. Commissioner of Income Maintenance, 214 Conn. 601,573 A. 2nd 712 (1990)).
5. Uniform Policy Manual (“UPM”) §7050 provides that in the Food Stamp program 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.

6. Uniform Policy Manual (“UPM”) Section 7050 outlines the Administrative Disqualification Hearing process.
7. UPM §7050.25 D.3 provides that if the assistance unit member or his or her representative cannot be located or fails to appear at a hearing without good cause, the hearing is conducted without the assistance unit member being represented.
8. **The Defendant was properly informed of the ADH process as the Defendant received and signed for the ADH packet by certified mail.**
9. **The Defendant was not present at the ADH. The Hearing went forward without the Defendant or a representative present. The Defendant did not show good cause for failing to appear.**
10. Title 7 of the CFR §273.12(a)(5)(v) provides for 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.
11. Title 7 of the CFR §273.12 (a) (2) provides in part, 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.
12. Title 7 CFR §273.9 (b) (1) (i) provides all earned income shall include all wages and salaries of an employee.
13. UPM §1010 provides for responsibilities of applicants and recipients and states that the assistance unit, by the act of applying for or receiving benefits, assumes certain responsibilities in its relationship with the Department.
14. UPM §1010.05 provides for supplying information and reporting changes and states in part that (A) the assistance unit must supply the Department in an accurate and timely manner as defined by the Department, all pertinent information and verification which the Department requires to determine eligibility and calculate the amount of the benefits. (B) The assistance unit must report to

the Department, any changes which may affect the unit's eligibility or amount of benefits.

15. **The Department correctly determined that the Defendant did not report the change in his employment status when he started employment with [REDACTED] on [REDACTED] 2017.**
16. **The Department correctly determined that the Defendant's gross earnings with [REDACTED] were countable income for the SNAP program.**
17. **The Department correctly determined that the Defendant had the responsibility to report income changes to the Department by [REDACTED] 2017 but failed to do so.**
18. **The Department correctly determined the Defendant's income exceeded the 130% FPL in [REDACTED] 2017.**
19. 7 CFR §273.16 (c) defines intentional Program violation as follows: For purposes of determining through administrative disqualification hearings whether or not a person has committed an 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 the Food Stamp Act, the Food Stamp Program Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt, or possession of Food Stamp coupons, authorization cards or reusable documents used as part of an automated benefit delivery system (access device).
20. Regulations of Connecticut State Agencies 17b-198-17 (c) provides that the Department shall investigate and take action in accordance with this subdivision with respect to any past overpayment when such overpayment is discovered, regardless of when the overpayment occurred or whether the overpaid assistance unit's case has been closed.
21. 7 CFR §273.16(e)(6) defines the criteria for determining intentional program as follows: 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, an Intentional Program Violation.
22. **The Department provided clear and convincing evidence the Defendant misrepresented, concealed and/ or withheld facts about his employment with [REDACTED] in violation of the SNAP regulations.**

- 23. The Department correctly determined the Defendant misrepresented his income in his submission of the PRF on [REDACTED] 7, 2017 and the W-1ER renewal submitted on [REDACTED] 2018.**
- 24. The Department correctly determined that the Defendant committed and intended to commit an IPV in the SNAP program.**
25. Title 7 CFR §273.16 (a) (3)(b)(1)(i) states that an individual 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 for a period of twelve months for the first Intentional Program violation.
26. UPM §7050.30 (B) (2) (b) (1) (a) provides that if an intentional recipient error occurred after August 1, 1984 and the court order does not specify a period of disqualification, the Department determines that for the first offense, the length of the disqualification is one year.
- 27. The Department is correct to seek the disqualification of the Defendant from the SNAP program as required by SNAP policy for a period of one year for a first violation.**
28. Title 7 CFR §273.18 (a) (1) pertains to claims against the household and provides that a recipient claim is an amount owed because of benefits that were overpaid.
29. UPM §7000.01 (A) provides the definition of an overpayment and states that an overpayment is the amount of financial or medical assistance paid to or on behalf of the assistance unit, or the amount of the Food Stamp allotment issued to an assistance unit, in excess of the amount the unit is properly entitled.
- 30. UPM §7045.15 (A) pertains to overpayments in the SNAP program and states in part and provides a General Description of the Process. The Department computes the amount of the overpayment by comparing the amount of the benefit which the assistance unit received and cashed during a month or series of months to the amount the assistance unit should have received during that period.**
31. UPM §7045.15 (B) provides the Department follows the policy outlined in Sections 5500 and 6000 to compute the amount of benefits the assistance unit should have received. 1. The Department first evaluates the assistance unit's prospective eligibility for the month. 2. The Department next evaluates the correctness of the Food Stamp allotment received in that month by using the budgeting method in effect at the time the overpayment occurred.

32. UPM §6010.10(B)(1) provides that the retrospective method is used to calculate benefits in all months after the initial month of eligibility.
- 33. The Department correctly determined that the Defendant was overpaid in SNAP benefits from [REDACTED] 2018 to [REDACTED] 2018.**
34. Title 7 of the CFR §273.18 (a) (2) states that this claim is a federal debt subject to this and other regulations governing federal debts. The State Agency must establish and collect any claims following these regulations.
35. Title 7 CFR §273.18 (a) (1) pertains to claims against the household and provides that a recipient claim is an amount owed because of benefits that were overpaid.
36. Title 7 CFR §273.18 (b) (1) pertains to the type of claim and provides that an intentional Program Violation (“IPV”) is any claim for an overpayment or trafficking resulting from an individual committing an IPV.
37. Title 7 CFR §273.18 (c) (1) provides that 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.
38. 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.
39. UPM §7045.05 (A) (3) provides that if the overpayment was caused by intentional recipient error, the Department may recoup from the assistance unit containing the person who committed the intentional error.
- 40. The Department correctly calculated the overpayment from [REDACTED] 2018 to [REDACTED] in accordance with 7 CFR § 273.18.**
- 41. The Department is correct to seek recoupment of SNAP benefits in the amount of \$1971.00 from the Defendant.**

DECISION

The Department's appeal is GRANTED.

ORDER

The Defendant is GUILTY of committing a first offense intentional program violation of the SNAP program. The Defendant is disqualified from the SNAP program for a period of one year and must make restitution of the SNAP overpayment in the amount of \$1971.00.

Almelinda McLeod

Almelinda McLeod
Hearing Officer

CC: OLCRAH.QA.DSS@ct.gov
Amy Hayden, CFIU Investigations Supervisor
Ryan Barganier, CFIU 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, 165 Capitol Avenue, Hartford, CT 06106, or the Commissioner of the Department of Social Services, 55 Farmington Avenue, Hartford, CT 06105-3725. 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 her 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.