

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3725

██████████ 2022
Signature Confirmation

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████████████████████
Request ID # 185350

ADMINISTRATIVE DISQUALIFICATION HEARING
NOTICE OF DECISION

PARTY

████████████████
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████████████████

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 Nutrition Assistance Program ("SNAP") for a period of one (1) year. The Department alleges that the Defendant committed an Intentional Program Violation ("IPV") by not reporting his unearned income. The Department seeks to recover the overpaid SNAP benefits of \$1,896.00. This is 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. The notification outlined the Defendant's rights in these proceedings.

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 Disqualification Hearing. The following individuals participated in the hearing:

██████████ Defendant
Shannon Hales-Eaton, Department Representative via telephone
George Jones, Observer via telephone
Carla Hardy, Hearing Officer

The hearing record remained open for the Department to submit additional evidence which was received. The hearing record closed on ██████████ 2022.

On ██████████ 2022, the hearing record was reopened to request additional evidence from the Department which was received. The hearing record closed on ██████████ 2022.

STATEMENT OF THE ISSUE

The first issue to be decided is whether the Defendant committed an IPV of the SNAP program.

The second issue to be decided is whether the Department's proposal to recoup a SNAP overpayment is correct.

FINDINGS OF FACT

1. On ██████████ 2020, the Defendant applied for SNAP assistance as a household of one. He reported that his rent is \$1,600.00 monthly and that he terminated his employment with ██████████ on ██████████ 2020, and that the rental income that he was receiving from his roomers had ended due to the COVID-19 Pandemic. (Exhibit 2: Application, ██████████/20; Exhibit 3: Case Notes; Hearing Summary)
2. On ██████████, 2020, the Department approved the Defendant's SNAP benefits. He was notified that he must contact the Department if his monthly gross income is more than \$1,354.00. (Exhibit 4A: Notice of Action ("NOA"), ██████████/20; Hearing Summary)
3. On ██████████, 2020, the Department mailed the Defendant a Periodic Report Form ("PRF") which is used to report changes halfway through the SNAP benefit period. (Exhibit 5: PRF, ██████████/20)
4. On ██████████, 2020, the Defendant signed the PRF wherein he reported that he did not have any changes to report and that he had no income. He reported that the information that he gave was true and complete to the best of his knowledge. (Exhibit 5)

5. On [REDACTED] 2020, the Department sent the Defendant an NOA approving his SNAP benefit for [REDACTED] 2020 and the months going forward. The Defendant was notified that he must contact the Department if his monthly gross income is more than \$1,354.00. (Exhibit 4B: NOA, [REDACTED]/20)
6. On [REDACTED] 2020, the Department received a referral alleging that the Defendant had unreported rental income from commercial property. (Hearing Record)
7. On [REDACTED] 2020, the Department interviewed the Defendant regarding the rental income to which the Defendant confirmed he was receiving. He gave the Department the name of [REDACTED] and his contact information. (Hearing Record)
8. [REDACTED] (“building manager”) is the building manager who handles the distributions and financial documents from the commercial building that was left to the Defendant and his sibling. (Defendant’s Testimony)
9. The commercial property is the [REDACTED] a retail building partnership located in [REDACTED] Connecticut. (Exhibit 8: Emails between the Department and the building Manager)
10. On [REDACTED] 2021, and [REDACTED] 2021, the building manager provided the Department with verification of the Defendant’s following monthly distributions:

Month	Amount
[REDACTED] 2020	\$1,539.61
[REDACTED] 2020	\$1,617.00
[REDACTED] 2020	\$657.67
[REDACTED] 2020	\$1,300.00
[REDACTED] 2020	\$1,000.00
[REDACTED] 2020	\$0.00
[REDACTED] 2020	\$1,000.00
[REDACTED] 2020	\$1,335.00
[REDACTED] 2020	\$1,330.00
[REDACTED] 2020	\$1,617.00
[REDACTED] 2020	\$1,617.00
[REDACTED] 2020	\$1,617.00
[REDACTED] 2020	\$1,617.00
[REDACTED] 2021	\$1,670.00
[REDACTED] 2021	\$1,670.00

(Exhibit 8: Emails Between the Department and Building Manager)

11. On [REDACTED] 2021, the Department’s Investigations Unit made a fraud referral due to the Defendant’s failure to report his monthly distributions from the commercial. (Exhibit 1: Report of Suspected IPV Overpayment, [REDACTED]/21)

12. The Defendant received the following SNAP benefits from [REDACTED] 2020 through [REDACTED] 2021:

Issuance Month	Amount Received
[REDACTED] 2020	\$51.00
[REDACTED] 2020	\$194.00
[REDACTED] 2020	\$194.00
[REDACTED] 2020	\$194.00
[REDACTED] 2020	\$194.00
[REDACTED] 2020	\$194.00
[REDACTED] 2020	\$232.00
[REDACTED] 2020	\$204.00
[REDACTED] 2020	\$204.00
[REDACTED] 2020	\$204.00
[REDACTED] 2021	\$234.00
[REDACTED] 2021	\$234.00
[REDACTED] 2021	\$234.00

(Exhibit 4A: NOA, [REDACTED]/20; After Hearing Exhibit 16: Benefit Issuance)

13. The Department determined that the Defendant failed to report his income when he applied for SNAP and when he completed the PRF. (Department's Testimony)
14. The Department determined that the Defendant committed an IPV under the SNAP program because he failed to report his distribution income at application and when he completed the PRF. (Department's Testimony, Hearing Record)
15. The Defendant has no previous intentional program violations. (After Hearing Exhibit 17: EDRS USDA Penalty Page; Department's Testimony)
16. On [REDACTED], 2021, the Department notified the Defendant of an overpayment of \$1,896.00 in SNAP benefits for the period covering [REDACTED] 2020 through [REDACTED] 2021, and his obligation to repay these benefits. The Department scheduled a Prehearing Interview with the Defendant on [REDACTED] 2021. (Exhibit 6: Waiver of Disqualification Hearing ("W1449"); After Hearing Exhibit 15: SNAP Computation Sheets, [REDACTED]/20 – [REDACTED] 21)
17. The Department did not include the Defendant's monthly \$1,600.00 rent in the calculation of the \$1,896.00 overpayment. (Exhibit 15)
18. On [REDACTED] 2021, Department conducted the Prehearing Interview. The Defendant reported that he was not being fraudulent. He did not sign the Waiver of Disqualification Hearing. (Exhibit 6: Waiver of Disqualification Hearing, Hearing Summary)

19. The Department is seeking to disqualify the Defendant from participating in the SNAP for a period of one year and is seeking recovery of \$1,896.00 in overpaid SNAP benefits. (Exhibit 6)
20. On [REDACTED], 2022, the Hearing Officer reopened the hearing record to request additional information from the Department. The Hearing Officer requested the SNAP Over Issuance Notice and the reason why the Defendant's \$1,600.00 rent was not included in the SNAP overpayment computation. (Hearing Officer's Exhibit BB: Email Reopening the Hearing Record, [REDACTED] 22 and Letter Reopening the Hearing Record, [REDACTED]/22)
21. The Department did not issue a SNAP Over Issuance Notice to the Defendant because he did not sign the Waiver of Disqualification Hearing. (After Hearing Exhibit 18: Email from the Department [REDACTED] 22)
22. The Department mistakenly omitted the Defendant's \$1,600.00 rent from the calculation of the SNAP overpayment. (Exhibit 18)
23. On [REDACTED] 2022, the Department included the Defendant's rent and recalculated the SNAP overpayment. (After Hearing Exhibit 19: Revised SNAP Computation Sheets)
24. The Department determined the Defendant eligible for \$0.00 in SNAP benefits in [REDACTED] 2020, [REDACTED] 2020, [REDACTED] r 2020, [REDACTED] 2021, [REDACTED] 2021, and [REDACTED] 2021. (Exhibit 19)
25. On [REDACTED] 2022, the Department reduced the SNAP Overpayment to \$1,314.00 for the months of [REDACTED] 2020 through [REDACTED] 2021. (Exhibit 18, Exhibit 19)
26. The Defendant met the SNAP gross and net income tests for the months of [REDACTED] 2020 through [REDACTED] 2021. (Exhibit 19)

CONCLUSIONS OF LAW

1. Section 17b-2 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.

3. Title 7 of the Code of Federal Regulations (“C.F.R.”) Section 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, 178 (1994) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d 712 (1990)).
5. 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. UPM § 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.

The Defendant participated in the hearing process.

8. Title 7 C.F.R. § 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).
9. UPM § 7050.30 sets forth disqualification penalties and procedures as a result of an Intentional Program Violation.
10. Title 7 C.F.R. § 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.

The Department provided clear and convincing evidence that the Defendant committed and intended to commit an Intentional Program Violation when he withheld information regarding his rental income.

11. Title 7 C.F.R. § 273.16 (a) (3)(b)(1)(i) states that an individual found to have committed an Intentional Program Violation shall be ineligible to participate in the Program for a period of twelve months for the first Intentional Program violation
12. UPM § 7050.30(B)(2)(b)(2)(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.

The Department is correct to seek the disqualification of the Defendant from the SNAP program for a period of one year.

13. Title 7 C.F.R. § 273.9(a) provides that participation in the Program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Households which contain an elderly or disabled member shall meet the net income eligibility standards for SNAP. Households which do not contain an elderly or disabled member shall meet both the net income eligibility standards and the gross income eligibility standards for SNAP. Households which are categorically eligible as defined in § 273.2(j)(2) or 273.2(j)(4) do not have to meet either the gross or net income eligibility standards. The net and gross income eligibility standards shall be based on the Federal income poverty levels as provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

UPM § 5520.40 provide that income eligibility for the SNAP is determined either through the use of SNAP gross and applied income tests or through meeting the eligibility requirements for Temporary Family Assistance ("TFA") (including diversion assistance), Aid to Families with Dependent Children ("AFDC"), Aid to the Aged, Blind or Disabled ("AABD"), General Assistance ("GA"), State Administered General Assistance "(SAGA)", refugee assistance or Supplemental Security Income ("SSI").

A. Gross Income Eligibility Test

1. The Gross Income Eligibility test is used for all units except those which:
 - a. include one or more persons who are elderly or disabled;
 - or
 - b. are categorically eligible for FS benefits.
2. When the Gross Income Test is used, the assistance unit's gross monthly income is compared to a limit which is equal to 130% of the Food Stamp Applied Income Limit (FSAIL) for the number of persons in the needs group:
 - a. If the unit's total gross income exceeds the standard, the unit is not eligible for Food Stamps benefits.

- b. If the unit's gross income equals or is less than the limit, the unit's applied income is then subjected to the Applied Income Test.
 - B. Applied Income Eligibility Test
 - 1. Income eligibility is determined on the basis of the assistance unit's total monthly applied income:
 - a. including those units which are not subjected to the Gross Income Eligibility Test; and
 - b. excluding those units which are considered categorically eligible for FS benefits.
 - 2. The unit's total monthly applied income is compared to an amount equivalent to the Food Stamp Applied Income Limit for the respective unit size:
 - a. If the total applied income exceeds the FSAIL, the unit is not eligible for Food Stamps benefits;
 - b. If the total applied income equals or is less than the FSAIL, the unit is eligible.
 - C. Categorical Eligibility Test

Those assistance units which qualify as categorically eligible are not subjected to gross or applied income eligibility tests.
14. Title 7 C.F.R. § 273.2(j)(2)(ii) provides that “the State agency, at its option, may extend categorical eligibility to the following households”
- (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 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 block grant”
 - (B) “Subject to FNS approval, 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 purposes under Title IV-A or Federal money under Title IV-A and that is designed to further purposes three and four of the TANF block grant”
15. Households in Connecticut with incomes below 185% of the federal poverty level qualify for the State’s “Help for People in Need” program, which meets the requirements outlined in 7 CFR § 273.2(j)(2)(ii), allowing the Department to extend broad-based categorical eligibility for SNAP to all such qualifying households.
16. Effective October 2020, 185% of the Federal Poverty Level for Extended Categorical Eligibility for a household of one person was \$1,968.00.
17. Title 7 C.F.R. § 273.10(e)(2)(ii)(C) provides except during an initial month, all eligible one-person and two-person households shall receive minimum monthly allotments equal to the minimum benefit. The minimum benefit is 8 percent of

the maximum allotment for a household on one, round to the nearest whole dollar.

The Defendant was eligible for the minimum monthly allotment in [REDACTED] 2020, [REDACTED] 2020, [REDACTED] 2020, [REDACTED] 2021, [REDACTED] 2021, and [REDACTED] 2021.

18. Title 7 C.F.R. § 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.
19. **The Department is incorrect in seeking recoupment of SNAP benefits in the amount of \$1,896.00 for the period of [REDACTED] 2020 through [REDACTED] 2021 from the Defendant.**
20. **The Department is incorrect in seeking recoupment of SNAP benefits in the amount of \$1,314.00 from the Defendant for the period of [REDACTED] 2020 through [REDACTED] 2021.**
21. **The correct amount of the recoupment has not been determined.**

DISCUSSION

The Defendant committed an IPV when he failed to report his income to the Department when he applied for SNAP and when he submitted his Periodic Report Form. However, the Department miscalculated the amount of the overpayment when they did not include his rent in the calculation of SNAP benefits and when they did not find him eligible for the minimum monthly SNAP allotment for the months of [REDACTED] 2020 through [REDACTED] 2021.

DECISION

The Defendant is **GUILTY** of committing a first offense intentional program violation of the SNAP. He is disqualified from the program for a period of one year and must make restitution. The correct amount of the overpayment has not been determined.

ORDER

1. The Department shall recalculate the amount of the Defendant's overpayment.
2. The Defendant shall be notified of the corrected amount of the overpayment.

3. Compliance with this order shall be forwarded to the undersigned by [REDACTED] 2022.

Carla Hardy
Hearing Officer

Pc: 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 06105-3725. 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.