

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

[REDACTED] 2022
Signature confirmation

Case: [REDACTED]
Client: [REDACTED]
Request: 190969

SNAP ADMINISTRATIVE DISQUALIFICATION HEARING

NOTICE OF DECISION

PARTY

[REDACTED]
[REDACTED]
[REDACTED]

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 [REDACTED] [REDACTED] (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 two different dates in [REDACTED] 2022, the OLCRAH issued a *Notice of Administrative Hearing* with a copy of the Department's summary and exhibits to the Defendant by certified mail, restricted delivery at his address of record. The *Notice* stated that an administrative disqualification hearing would be held by telephone conferencing on [REDACTED] [REDACTED] and a decision issued even should the Defendant not appear. [REDACTED] [REDACTED] signed for the certified mailings, restricted delivery on [REDACTED] 2022 and [REDACTED] 2022.

On [REDACTED] 2022, 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:

LaShea Hall, Fraud Unit, Department Representative
Eva Tar, Hearing Officer

The hearing record closed [REDACTED] 2022.

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 \$1,590.80 in SNAP benefits issued to his one-person household for the service months of [REDACTED] 2020 through [REDACTED] 2020.

FINDINGS OF FACT

1. On [REDACTED] 2019, the Department granted the Defendant \$194.00 per month in SNAP benefits effective [REDACTED] 2019, as a one-person household with no rental obligation. (Exhibit 5)
2. From [REDACTED] 2020 through [REDACTED] 2020, the Department continued to issue the Defendant a \$194.00 per month SNAP benefit. (Exhibits 7 and 13)
3. On [REDACTED] 2020, the Department issued the Defendant a \$38.80 supplemental SNAP benefit, associated with an approved federal Food and Nutrition Service (FNS) waiver for food loss during mass power outages in Connecticut caused by Tropical Storm Isaias. (Exhibits 13 and 16)
4. [REDACTED] (the "Company") is owned by the Defendant's father. (Department Representative Testimony)
5. On [REDACTED] 2019, the Defendant received his first weekly paycheck of \$590.00, or \$20.00 per hour for 29.5 hours, as an employee of the Company. (Exhibit 4)
6. The Defendant did not report his employment at the Company and did not report his receipt of his first paycheck to the Department on his *Periodic Report Form*, signed [REDACTED] 2019. The Defendant drew a diagonal line through the income section of the *Periodic Report Form*. (Exhibit 6)
7. The Defendant's signature follows the following statement: "By signing, I agree that: I have read this entire form including the section about rights and responsibilities, or have had it read to me in a language that I understand, and that I must comply with these rules; The information I am giving is true and complete to the best of my knowledge; I could go to prison or be required to pay fines if I knowingly give wrong

or incomplete information; and DSS and other federal, state, and local officials may verify (check) any information I give.” (Exhibit 6)

8. In ██████████ 2019, the Defendant grossed \$1,590.00 in wages. (Exhibit 4)
9. In ██████████ 2020, the Defendant grossed \$2,860.00 in wages. (Exhibit 4)
10. In ██████████ 2020, the Defendant grossed \$2,920.00 in wages. (Exhibit 4)
11. In ██████████ 2020, the Defendant grossed \$2,680.00 in wages. (Exhibit 4)
12. In ██████████ 2020, the Defendant grossed \$3,010.00 in wages. (Exhibit 4)
13. In ██████████ 2020, the Defendant grossed \$3,760.00 in wages. (Exhibit 4)
14. In ██████████ 2020, the Defendant grossed \$3,140.00 in wages. (Exhibit 4)
15. For the partial month of ██████████ 2020—from ██████████ 2020 through ██████████ 2020—the Defendant grossed \$1,480.00 in wages. (Exhibit 4)
16. The Department discovered that the Defendant’s unreported wages by means of a Fraud Hotline tip. (Exhibit 1) (Department’s Representative Testimony)
17. The Department is not seeking recovery of SNAP benefits issued to the Defendant for the service months of ██████████ 2019 and ██████████ 2020. (Hearing record)
18. On or after ██████████, 2020, the Department received verification of the Defendant’s gross wages issued in the period from ██████████ 2019 through ██████████ 2020. (Exhibit 4)
19. From ██████████ 2019 through ██████████ 2020, the Defendant grossed \$21,440.00 in weekly wages from the Company. (Exhibit 4)
20. The hearing record does not include exhibits that identify the exact gross wages received by the Defendant in the period from ██████████, 2020 through ██████████, 2020, and for the months of ██████████ 2020 and ██████████ 2020.
21. The Defendant was ineligible to receive SNAP from ██████████ 2020 through ██████████ 2020, based on his applied income after allowable deductions exceeding the SNAP Thrifty Food Plan for a one-person household. (Exhibit 7)
22. The Department seeks recovery of \$1,590.80 in SNAP benefits issued to the Defendant for the service months of ██████████ 2020 through ██████████ 2020, or \$194.00 per month in SNAP for eight months plus the \$38.80 supplemental SNAP benefit issued in ██████████ 2020 due to Tropical Storm Isaias. (Exhibits 8 and 12)

23. The hearing record is silent as to whether federal regulation permits the recovery of supplemental SNAP benefits issued through the approved FNS waiver for Tropical Storm Isaias.
24. The Defendant has not previously been disqualified from participation in the SNAP for an intentional Program violation. (Exhibit 14) (Department Representative Testimony)
25. The Defendant currently is not active on SNAP. (Department Representative Testimony)
26. 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] 2022 and [REDACTED] 2022, an individual permitted to receive certified mail, restricted delivery on the Defendant’s behalf received notification of OLCRAH’s scheduling of an administrative disqualification hearing. This final decision would become due no later than [REDACTED] 2022. 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 a SNAP administrative disqualification hearing.

2. Title 7, Section 273.9 (a) of the Code of Federal Regulations provides for gross income and net income eligibility standards.

Unless categorically eligible for the SNAP, the Defendant's income had to fall within the gross and net income eligibility standards of the SNAP as a condition of SNAP participation.

3. "*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 unreported wages were counted earned income.

4. Title 7, Section 273.12 (a) (5) (v) of the Code of Federal Regulations 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).

"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.

5. "*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, concealed, or withheld facts when he indicated to the Department on his [REDACTED] 2019 Periodic Report Form that he had no employment and no income, as he had received his first weekly paycheck for \$590.00 on [REDACTED], 2019, six days prior to his signing the Periodic Report Form.

The Defendant committed an intentional Program violation of the SNAP.

6. 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.

7. 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 2020 Federal poverty guidelines are published in the Federal Register at 85 FR 3060. Effective January 14, 2020, the Federal poverty guidelines for a one-person household living in Connecticut equaled \$12,760.00 per year.

Connecticut implements the State option of Expanded Categorical Eligibility of 185% of the Federal poverty guidelines for households that contain no elderly or disabled members. See 7 C.F.R. § 273.2 (j)(2)(ii) and (iii). One hundred and eighty-five percent of the Federal poverty guidelines for a one-person household living in Connecticut equaled \$30,687.80 per year in 2020, or \$2,557.30 per month in 2020.

The Department correctly determined that the Defendant's gross income from wages exceeded the SNAP's gross income limit for a one-person household for the service months of [REDACTED] 2020 through [REDACTED] 2020.

The Department correctly determined that the Defendant was ineligible for SNAP benefits for the service month of [REDACTED] 2020, as his verified income for the first two weeks (of a 4.5-week month) of employment after allowable deductions exceeded the SNAP Thrifty Food Plan grant for a one-person household.

The Department correctly determined that the Defendant was ineligible to receive SNAP benefits for the service months of [REDACTED] 2020 through [REDACTED] 2020.

8. "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.

The Department may recover from the Defendant \$1,164.00 in SNAP benefits issued to his one-person household for the service months of [REDACTED] 2020 through [REDACTED] 2020.

DISCUSSION

The Department established by clear and convincing evidence that the Defendant had committed an intentional program violation of the SNAP. The Department may disqualify the Defendant from participating in the SNAP for 12 months.

The Department may also seek recovery from the Defendant of the \$1,164.00 in SNAP benefits for the service months of [REDACTED] 2020 through [REDACTED] 2020. With respect to the service months of [REDACTED] 2020 and [REDACTED] 2020, it cannot be determined from the hearing record whether the Defendant received SNAP benefits for which he was not eligible.

DECISION

The Department's request to disqualify the Defendant from participating in the SNAP for 12 months is GRANTED.

With respect to the Department's intent to recover overissued SNAP benefits from the Defendant, the undersigned hearing officer finds that the Department may recover \$1,164.00 in SNAP benefits issued for the [REDACTED] 2020 through [REDACTED] 2020 service months.

ORDER

1. The Department is ordered to void the SNAP overpayments for [REDACTED] 2020 and [REDACTED] 2020.¹
2. Within 14 calendar days of the date of this decision, or [REDACTED] 2022, documentation of compliance with this Order is due to the undersigned.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

Cc: LaShea Hall, DSS-Bridgeport
OLCRAH.QA.DSS@ct.gov

¹ If the Department in the future verifies the Defendant's *exact* gross wages received in [REDACTED] 2020 and [REDACTED] 2020 and finds those gross wages exceeded the SNAP income limits, the Department may pursue recovery of the resulting overpayments. The Department would be required in such case to issue a notice of its intent to recover the overpayments to the Defendant, preserving his right to appeal that action, should he timely request an administrative hearing.

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.